

turnable, as well as all bonds and recognizances heretofore entered into in any of said courts shall be valid and binding as if no change had been made by this Act in the times of holding said terms of court.

Sec. 3. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Sec. 4. The rapid settlement of the counties mentioned in this Act and the crowded condition of the dockets of the district courts of the various counties in said judicial district and the want of time for disposing of the business of the district court of said counties creates an imperative public necessity and an emergency requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house and said rule is now hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

FORTY-EIGHTH DAY.

Senate Chamber,
Austin, Texas,
Monday, March 12, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Dayton.	Page.
Dean.	Parr.
Decherd.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Suiter.
Harley.	Westbrook.
Hopkins.	Woodward.

Absent—Excused.

Henderson.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed

with on motion of Senator Westbrook.

Excused.

Senator Johnston of Harris for Saturday on motion of Senator Dean.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Messages from the House.

Hall of the House of Representatives.
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has reconsidered the vote by which the Free Conference Committee report on House Bill No. 502 was adopted, and request the conference to submit another report.

Passed:

H. B. No. 498, A bill to be entitled "An Act to provide for the establishment and maintenance of the State home for dependent and neglected children, to locate the same, and provide for its control and management, making appropriation for such purposes, and declaring an emergency."

H. B. No. 768, A bill to be entitled "An Act for the protection of live stock and other domestic animals from injury in Harrison county and to prevent the unnecessary destruction of fox and other fur-bearing animals usually hunted for sport, and to prohibit the setting of any trap, snare or device for taking, snaring, trapping or catching of same, and to provide a punishment for so doing."

H. B. No. 792, A bill to be entitled "An Act creating and incorporating the Karnes City Independent School District in Karnes county, etc., and declaring an emergency."

S. B. No. 452, A bill to be entitled "An Act to create a more efficient road system for Henderson county, Texas."

S. B. No. 447, A special road law for Colorado county, Texas, with amendments.

H. B. No. 694, A bill to be entitled "An Act to aid the city of Corpus Christi in elevating and raising a portion of said city and building a sea wall or breakwater so as to protect it from calamitous overflows, by donating to it the ad valorem taxes collected on property and from persons in Nueces county for a period of fifteen years, and to provide a penalty for their misapplication, and declaring an emergency."

H. B. No. 595, A bill to be entitled "An Act prescribing the duties of the district attorney and county attorney with reference to habeas corpus proceedings and examining trials in counties where there is not a resident criminal district attorney, and repealing Article 31, Title 1, Chapter 2, of the Code of Criminal Procedure, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Adopted S. C. R. No. 26, relating to inserting certain words in caption of H. B. No. 502.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 237, A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation, defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the Board of Water Engineers for permits to construct storage, diversion and distribution works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing

standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water, and declaring the effects of failure to observe the same; authorizing the issuance of certificates of water rights and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method for determining and recording titles to irrigation works, and establishing the period of limitation to quiet titles thereto; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair (Lieutenant Governor Hobby), had referred after their captions had been read, the following House Bills:

H. B. No. 694, referred to the Committee on Finance.

H. B. No. 595, referred to the Committee on Criminal Jurisprudence.

H. B. No. 768, referred to the Committee on Stock and Stock Raising.

H. B. No. 792, referred to the Committee on Educational Affairs.

H. B. No. 498, referred to the Committee on Finance.

H. B. No. 237, referred to the Committee on Mining, Drainage and Irrigation.

Bills and Resolutions.

By Senator Parr:

S. B. No. 480, A bill to be entitled "An Act to prohibit blacklisting by labor organizations and members thereof of members of the Legislature of Texas and of candidates for office who are or have been members of the Legislature of the State of Texas, and to define the offense of such blacklisting and to prescribe the punishment therefor and to fix the venue of prosecutions under this Act, and declaring an emergency."

Read first time and referred to the Committee on Privileges and Elections

Senate Concurrent Resolution No. 27.

Whereas, On March 7th, 1917, a memorial was presented to the Legislature of Texas, signed by the president and every member of the faculty of the University of Texas, citing certain charges and statements made on the floor of the Hall of the House of Representatives on March 3rd, 1917, and asking that a full, thorough, fair, impartial and public inquiry into the determination of, all said charges and accusations to the end that the truth might be known, and

Whereas, The regular session of the Thirty-fifth Legislature has continued for more than sixty days and is probably nearing its close, and there would not be time for an extended investigation, even if one were needed; now, therefore, be it

Resolved, By the Senate of Texas, the House of Representatives concurring, and each branch of the Legislature speaking for itself,

(1) That we have confidence in the honesty, honor and integrity of the president and the members of the faculty of the University of Texas and do not believe that the most rigid investigation would disclose any wrong-doing;

(2) That we have seen no evidence that the University of Texas has maintained or is maintaining any lobby before this Legislature to bring about the ruin of the Governor, and do not believe same is being done;

(3) That we have seen no evidence of any conspiracy between the University of Texas and the Legislature of Texas or any member thereof, to have introduced resolutions to investigate the conduct of the Governor;

(4) Having faith in the honesty of the members of the faculty of the University of Texas, and all charges made against any member thereof having already been investigated, we affirm our belief that the University is not robbing the people but is worthy the confidence and high place in the affection of our people that it has held and made for itself since its institution by the founders of this State and insist that matters already investigated and passed upon, be regarded by all parties concerned as settled and determined.

Lattimore, Johnston, Dean, Johnson, Decherd, Buchanan of Scurry, McCollum, Robbins, Suiter, Alderdice, Buchanan of Bell, Smith, Dayton, Westbrook, Gibson, Caldwell, Floyd, Strickland.

On motion of Senator Page the resolution was laid on the table subject to be called up after a 24-hour notice given of such intention.

Courtesy Resolution No. 115.

Whereas, The State of Texas is justly proud of the location of the Federal Farm Loan Bank at Houston, Texas; and

Whereas, The State of Texas and this Senate are both to be congratulated upon the appointment of its presiding officer to the position of secretary and director of said bank; and

Whereas, he is in every way competent, qualified and experienced in such work so that he will render service of the kind and nature that Texas will be proud of; therefore be it

Resolved by the Senate of Texas, that we extend our congratulations to Lieutenant Governor W. P. Hobby

and bespeak for him a successful career. Be it further

Resolved, That we hereby express to him our sincere thanks for his impartial and just rulings, management and control of this Senate as its presiding officer, and that we regretfully learn of his departure from his exalted place in our midst—and at the same time recognizing that the State of Texas has a greater claim to him than we have, we agree to his transfer to the other place; be it

Resolved, That this resolution be adopted by a rising vote of this Senate.

Dayton, Floyd, Sulter, Buchanan of Bell, Johnston of Harris, Lattimore, McCollum, Decherd, Johnson of Hall, Gibson, Hudspeth, Hall, Strickland, McNealus, Bailey, Hopkins, Woodward, Alderdice, Clark, Smith, King, Bee, Page, Dean, Caldwell, Parr, Robbins, Westbrook, Harley.

The resolution was read and adopted by unanimous rising vote of the Senate.

Simple Resolution No. 116.

Whereas, A small number of the United States Senators who have been denominated by the President of the United States as "contemptible" by a filibuster in the Senate of the United States defeated the purposes of the President and the wish of a great majority of United States Senators in their effort to uphold the honor and dignity of the United States of America and preserve the ideals of our Government, and

Whereas, One William J. Stone, chairman of the Committee on Foreign Relations in the Senate of the United States, assisted in the said filibuster and lent aid and comfort to the enemies of the President of the United States and indirectly to the enemies of our Government; and,

Whereas, The said William J. Stone has recently stated through the press that he would again be elected as chairman of said committee; now, therefore, be it

Resolved by the Senate of Texas, That we denounce the acts of the said William J. Stone in opposing the wishes of the President of the United States as traitorous to the President, to

his party which has so highly honored him, and to his country, and we earnestly desire that he shall not be elected chairman of a committee which may in the near future have in its hands the life or death of our beloved country, and we, therefore, respectfully request our representatives in the United States Senate to use all the influence at their command to see that a true American citizen and one upon whom the President and the country may rely, is elected chairman of said committee, rather than the man who has betrayed his President, his party and his country; be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Hon. Chas. A. Culberson and Hon. Morris Sheppard and to each representative of the State of Texas in the United States Congress.

PAGE.

Senator Johnston of Harris offered the following amendment, which was adopted:

Amend the resolution by striking out the words "gum shoe bill" wherever they occur.

The resolution as amended was then adopted.

Morning call concluded.

Address of Senator Johnston.

Senator Bee made the following motion:

I move that the address of the Senator from Harris accepting the appointment as representative from the Senate of Texas at the Confederate Reunion at Washington be printed in the Journal.

The motion prevailed and the following is in full Senator Johnston's

Address.

I know of nothing adequate to say on this occasion. That I thank you, one and all, from my heart, for this unusual compliment, goes without saying. If I felt that I could be worthy of all that you have said about me and implied by your action it would be sufficient compensation for all the labor that I have performed in this body. To send me as your representative to stand before those veterans who wore the gray, and fought, while many of their comrades died, for a cause, which I, at

least, believe still lives, is indeed a compliment. So far as I am concerned personally, of course I appreciate what my fellow Senators say about me, and I can say this without the charge of immodesty, that I have tried all my life to be: First, a man, true to my country, true to my friends, true to my convictions and true to myself, and, in the words of the immortal bard,

"He that is true to himself is true to all men."

I have made mistakes; I have been wrong, possibly in some of my contentions on public questions; I have disagreed with many people in Texas and elsewhere; I have disagreed with some of the Senators on this floor; but I do hope that every one of you will believe, and I ask you to believe, that when I differ with you it is not through any desire to be captious, but that I am actuated by my convictions of what is right. No man, no set of men, ever owned or controlled me. In this body I have voted, and I shall continue to vote, just precisely the way that I think is right, and if I, in my duties here, can convince you of that fact, I will have performed my duty well.

I don't know, Senators, that I can say more than to sincerely thank you for this very unusual compliment, and I shall go to the reunion and say to those people that I bear a message from the Senate of Texas, the greatest State in the Union, and one of the greatest Senates ever assembled in any State.

Report of Conference Committee on House Bill No. 502.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby President of the Senate; Hon. F. O. Fuller, Speaker of the House of Representatives.

Sirs: We, your Conference Committee elected by the Senate and appointed by the Speaker of the House of Representatives, respectively, to consider House Bill No. 502, with Senate amendments,

Beg leave to report as follows:

We have adjusted the differences that have arisen between the two houses by reason of the amendments attached to the bill by the Senate, and we recommend that the Senate rescind and that

the House do not concur in Senate amendment No. 1, and that we recommend the words "or who practice law without license" be stricken from Senate Concurrent Resolution No. 26.

We recommend further that the House concur in Senate amendments Nos. 2 and 3.

FISHER,
LANGE,
MENDELL,

On part of the House.

BEE,
CALDWELL,
KING,
HOPKINS,
WESTBROOK,

On part of the Senate.

The report was read and, on motion of Senator Bee, the same was adopted.

Bills Signed.

The Chair (Lieutenant Governor Hobby) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 414, A bill to be entitled "An Act creating a more efficient road system for Grimes County, Texas, etc., and declaring an emergency."

S. B. No. 363, A bill to be entitled "An Act to prescribe the time of holding the terms of the district court in the various counties, comprising the Thirty-eighth judicial district of the State of Texas, and to repeal all laws in conflict therewith, and declaring an emergency."

S. B. No. 11, A bill to be entitled "An Act to apportion the State of Texas into congressional districts, naming the counties composing the same, and providing for the election of a member of the Congress of the United States from each district, and repealing all laws and parts of laws in conflict herewith."

S. B. No. 109, A bill to be entitled "An Act to amend Article 2811, Chapter 14, Title 48, Revised Statutes of Texas, 1911, empowering the trustees of any school district upon petition of parents or guardians, to require said trustees to establish and maintain free kindergartens for the training of children between the age of five and seven years, and to pro-

vide for trained kindergarten teachers."

S. B. No. 417, A bill to be entitled "An Act creating the Aspermont Independent School District in Stonewall County, Texas; defining its metes and bounds; vesting it with rights, powers, duties and privileges of independent school districts incorporated for free school purposes under the General Laws of this State; providing a board of trustees therefor; providing that the outstanding indebtedness of the Aspermont Independent School District as same was incorporated under the General Laws of this State shall be assumed by the Aspermont Independent School District as created by this Act, etc., and declaring an emergency."

S. B. No. 430, A bill to be entitled "An Act to amend Special Road Law of Morris County, passed by the Thirty-first Legislature and amended at the Regular Session of the Thirty-fourth Legislature and creating a more efficient road law for Morris County."

S. B. No. 407, A bill to be entitled "An Act amending Section 1, Chapter 67, Special Laws of Texas, Acts of the Thirty-first Legislature, Regular Session, entitled 'An Act creating the Hamlin Independent School District in Jones County, Texas, defining its boundaries; providing for the election of a board of trustees to manage and control the public free schools within said district; vesting said district with the rights and powers and privileges and duties of a town or city incorporated for free school purposes only under the General Laws, and declaring an emergency,' so as to include additional territory in Jones and Fisher Counties, Texas; re-establishing the metes and bounds of the Hamlin Independent School District, and declaring an emergency."

S. B. No. 237 A bill to be entitled "An Act to amend Chapter 179 of the General Laws of the State of Texas passed at the Regular Session of the Thirty-third Legislature, entitled 'An Act relating to employers' liability and providing for the compensation of certain employes and their representatives and beneficiaries, for personal injuries sustained in the course of employment, and for deaths resulting from such injuries

and to provide and determine in what cases compensation shall be paid,' etc."

Senate Bill No. 447—House Amendment Concurred In.

Senator Clark called up for consideration of the House amendment to: S. B. No. 447, a special road law for Colorado County, Texas.

The following House amendment was laid before the Senate:

Amend Section 10 by adding after the word "therefor" at the end of said section as follows: "Provided, however, that in no event shall each county commissioner when acting either as county commissioner or road commissioner, or both be paid in any one fiscal year in a sum in excess of nine hundred dollars (\$900.00), the same to be paid monthly installments."

On motion of Senator Clark the Senate concurred in the amendment.

House Joint Resolution No. 5— Recommitted.

On motion of Senator Dayton, House Joint Resolution No. 5 was recommitted to the Committee on Constitutional Amendments.

Senate Bill No. 42.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 42, A bill to be entitled "An Act to provide for the registration of land titles in this State, to prescribe the procedure, the duties of officers in relation thereto, the venue, the form of registration certificates and the recording thereof, for the appointment of examiners and fees to be charged in such proceedings."

The bill was read second time.
Pending.

Senate Joint Resolution No. 7.

The Chair laid before the Senate on third reading:

S. J. R. No. 7, A Joint Resolution to amend Section 1 of Article 8 of the Constitution of the State of Texas, so as to exempt from taxation county

and city bonds, school and road district bonds, vendor's lien notes, and other securities bearing a rate of interest of six per cent or less."

The resolution was laid before the Senate, read third time and passed by the following vote:

Yeas—26.

Alderdice.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Hopkins.	Woodward.

Present—Not Voting.

Bailey. King.

Absent.

Harley. McCollum.

Absent—Excused.

Henderson.

Senate Joint Resolution No. 13.

The Chair laid before the Senate on third reading:

S. J. R. No. 13, Being a resolution proposing to amend Section 38, Article 16 of the Constitution of this State so as to create the office of Commissioner of Insurance, making such office elective, and fixing the term thereof as four years at such compensation as the Legislature may prescribe; declaring such Commissioner shall perform such duties relative to administration of the insurance laws of this State as the Legislature may prescribe; declaring that the Department of Banking shall be separate and apart from the Insurance Department; stating that the subjects of statistics and history shall be under the supervision of such officer or officers, agents or agencies as may be prescribed by the Legislature; declaring that the Legislature shall pass appropriate laws making this section effective; fixing the date of the election at the next regular election; prescribing the bal-

lots and what shall be printed thereon; stating how the votes shall be cast for and against such an amendment; providing that the general election laws so far as applicable shall apply to the election; directing the Governor to make proclamation hereof and making an appropriation of \$5,000 to defray the expenses hereof.

The resolution was laid before the Senate, read third time and failed to pass by the following vote:

Yeas—19.

Alderdice.	Hudspeth.
Bee.	Johnson of Harris.
Buchanan of Scurry.	Lattimore.
Clark.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Gibson.	Smith.
Hall.	Westbrook.
Harley.	Woodward.
Hopkins.	

Nays—8.

Bailey.	King.
Decherd.	Parr.
Floyd.	Strickland.
Johnson of Hall.	Suiter.

Absent.

Buchanan of Bell. McCollum.
Caldwell.

Absent—Excused.

Henderson.

Senator Strickland moved to reconsider the vote by which S. J. R. 13 failed to pass and spread on the Journal the motion to reconsider.

The motion prevailed.

Senate Bill No. 26.

The Chair laid before the Senate on third reading:

S. B. No. 26, A bill to be entitled "An Act to amend Articles 312, 314 and 318, of Chapter 1, Title 12, entitled Attorney at Law, of the Revised Statutes of 1911 of the State of Texas, relating to the granting of licenses to attorneys at law, so as to require applicant for liens to apply to the board of legal examiners of the supreme judicial district in which such applicant resides; providing that where applicant is refused a license he must ap-

ply thereafter to the same board, and providing that immigrant attorneys must apply to the board of examiners of the supreme judicial district in which the seat of government of this State may be, and to repeal all laws in conflict herewith."

By unanimous consent and on request of Senator Bee, S. B. No. 26 was laid on the table subject to call.

Senate Bill No. 163.

The Chair laid before the Senate, on third reading,

S. B. No. 163, A bill to be entitled "An Act creating the office of State Commissioner of Education, prescribing the manner of his election, defining his term of office, fixing his salary, prescribing his duties, providing for substitute of title of 'State Commissioner of Education' for 'State Superintendent of Public Instruction,' and repealing all laws in conflict herewith."

On motion of Senator Alderdice the bill was laid on the table subject to call.

Senate Bill No. 164.

The Chair laid before the Senate on third reading

S. B. No. 164, A bill to be entitled "An Act to amend Section 10 of Chapter 36, page 359, of Acts of the Thirty-first Legislature, approved March 15, 1909, entitled 'An Act to validate the Wichita Falls Independent School District' (and for other purposes) by repealing the last clause of Section 10 of said Act which limits the powers and discretion of the board of equalization of said independent school district in the performance of its duties, and declaring an emergency."

On motion of Senator Johnson of Hall the bill was laid on the table subject to call.

Senate Bill No. 186.

The Chair laid before the Senate on third reading:

S. B. No. 186, A bill to be entitled "An Act to amend Section 1 Chapter 26, of the General Laws of the Thirty-third Legislature, 1913, State of Texas, more clearly defining some of the du-

ties of the Attorney General, district and county attorneys of this State, and imposing other and additional duties upon such officers, and prohibiting the Attorney General from giving counsel and advice, except to certain public officers named, and declaring an emergency."

The bill was laid before the Senate, read third time and passed by the following vote:

Yeas—27.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Hopkins.	

Absent.

Clark.	McCollum.
King.	

Absent—Excused.

Henderson.

Senate Concurrent Resolution No. 1.

By unanimous consent and on request of Senator McNealus the Chair announced that Senate Concurrent Resolution No. 1 would be taken up for consideration immediately after disposition of Senate Bill No. 42.

House Bill No. 553.

The Chair laid before the Senate on third reading:

H. B. No. 553, A bill to be entitled "An Act to amend Article 7305 of the Revised Civil Statutes of 1911, relating to the inspection of hides and animals, so as to include among the counties exempted from the provisions of Articles 7256 to 7304, inclusive, the Counties of Coke, Irion, Reagan, Sterling, Tom Green and Upton."

The bill was laid before the Senate, read third time and passed finally.

On motion of Senator Hudspeth the vote by which House Bill No. 553 was passed was rescinded.

Senator Buchanan of Scurry offered the following amendments:

Amend House Bill No. 553 by adding the counties of Borden, Lubbock, Lynn and Terry to the list of counties exempted.

Amend H. B. No. 553 by adding the counties of Borden, Lubbock, Lynn and Terry after the word "Up-ton" in the caption.

The amendments were unanimously adopted, being voted on separately.

The bill was laid before the Senate and passed finally.

Senate Bill No. 200.

The Chair laid before the Senate on third reading:

S. B. No. 200, A bill to be entitled "An Act to prevent and punish desecration, mutilation and improper use of the flag of the United States of America, and declaring an emergency."

The bill was laid before the Senate, read third time and passed finally without a roll call.

Senate Bill No. 263.

The Chair laid before the Senate on third reading:

S. B. No. 263, A bill to be entitled "An Act to amend Article 1033, Chapter 14, Title 22, of the Revised Civil Statutes of the State of Texas, adopted in 1911, so as to authorize the incorporation of towns or villages containing more than two hundred (200) and less than ten thousand (10,000) inhabitants."

Senator Dean offered the following amendments which were read and unanimously adopted by the Senate:

Amend the bill by striking out the words and figures "ten thousand (10,000)" in the caption of the bill and insert in lieu thereof the words and figures "five thousand (5,000)."

Amend the bill by striking out the words and figures "two hundred (200)" and insert in lieu thereof the words and figures "three hundred (300)."

The bill was laid before the Senate, read third time and passed.

Senate Bill No. 310.

The Chair laid before the Senate, on third reading:

S. B. No. 310, "An Act prescribing the qualifications of the county superintendent of public instruction, fixing the salary of the county superintendent, providing that no present commissions shall be impaired, allowing commissioners' courts and boards of county school trustees to provide clerical and supervisory help, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Senator Johnson of Hall offered the following amendment, which was read and adopted by unanimous vote of the Senate:

Amend the bill by making the minimum salary of superintendents \$1,300.00.

BUCHANAN of Scurry.
JOHNSON of Hall.

The bill was laid before the Senate, read third time and passed finally.

Senate Bill No. 470.

By unanimous consent, Senator Bee called up, on its third reading:

S. B. No. 470, A bill to be entitled "An Act to amend Article 2877, Title 48, Chapter 17, of the Revised Civil Statutes, 1911, entitled 'Election Local School Tax,' providing that the city or town council or board of aldermen of any city, town or village, whether incorporated under any Act of the Congress of the Republic or the Legislature of the State of Texas, or under any Act of incorporation whatever, shall have power by ordinance to annually levy and collect a local tax not to exceed in any one year fifty cents on the one hundred dollars valuation of the property subject to taxation in such district for the support and maintenance of public free schools and the erection and equipment of school buildings therein; providing that no levy of such tax shall be made until an election shall have been held in which none but property tax payers who are qualified voters of such city or town or of such independent school district shall vote and a majority of those voting shall vote in favor thereof; providing that said tax may be for a specific amount of not to

exceed fifty cents on the one hundred dollars valuation; providing that one election for the levy of any such tax or for the repeal of any such tax shall be held in any one calendar year, but whenever the majority of any such voters have voted in favor of such tax, no election for its repeal shall be held for two years thereafter; making provisions for the levy and collection of said tax; providing that the limitation upon the amount of the school district tax authorized by this Act shall not apply to incorporated cities or towns constituting separate and independent school districts as is provided in Section 3, Article 7, of the Constitution of the State of Texas, and declaring an emergency."

The bill was laid before the Senate, read third time and passed by the following vote:

Yeas—24.

Alderdice.	Johnson of Hall.
Bailey.	Johnston of Harris.
Bee.	King.
Buchanan of Bell.	Lattimore.
Caldwell.	McCollum.
Dayton.	Page.
Dean.	Parr.
Decherd.	Robbins.
Gibson.	Smith.
Hall.	Suiter.
Harley.	Westbrook.
Hopkins.	Woodward.

Nays—1.

Strickland.

Absent.

Buchanan of Scurry, McNealus.
Floyd.

Absent—Excused.

Henderson.

Pair Recorded.

Senator Hudspeth (present), who would vote "yea"; Senator Clark (absent), who would vote "nay."

Senate Bill No. 315.

The Chair laid before the Senate on third reading:

S. B. No. 315, A bill to be entitled "An Act to amend Title 22, Chapter 4, Article 879 of the Revised Statutes of the State of Texas of 1911, and declaring an emergency."

On motion of Senator Lattimore, the bill was laid on the table subject to call.

Recess.

At 1:40 o'clock p. m., on motion of Senator Dayton, the Senate recessed until 3 o'clock today.

After Recess.

(Afternoon Session.)

The Senate was called to order by Lieutenant Governor Hobby.

At Ease.

By unanimous consent the Chair announced the Senate would be at ease for fifteen minutes.

Messages From the House.

Hall of the House of Representatives.
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 368, A bill to be entitled "An Act to amend Article 6096, Chapter 1, Title 101 of the Revised Civil Statutes of the State of Texas pertaining to partitions and authorizing the partition of any real estate, or of any interest therein, or of any mineral, coal, petroleum or gas lands, whether held in fee or by lease or otherwise, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 837, A bill to be entitled "An Act making appropriation to pay contingent expenses of the Thirty-fifth Legislature, with engrossed rider.

H. B. No. 339, A bill to be entitled

"An Act to define a delinquent negro child, and to regulate the treatment and control of same; providing for commitment of the delinquent and incorrigible negro juveniles in the State institution to be hereafter known as the State Training School for Negro Boys, located at Rusk, Henderson County, Texas; and to provide for the appointment by the Governor of six trustees, and defining the duties of said trustees, etc., and declaring an emergency."

H. B. No. 319, A bill to be entitled "An Act to amend Article 1974, Section 3, Chapter 59, page 113, of the General Laws of the State of Texas, passed by the Thirty-third Legislature at its Regular Session, relating to special instructions by the court," with engrossed riders.

H. B. No. 419, A bill to be entitled "An Act to establish standard containers and standard grades and packs for fruits and vegetables grown in this State for the markets; to prescribe dimensions and cubical contents of such containers; to require the manufacturers of such containers to conform to the standards herein prescribed; to define the different grades and packs as applied to different kinds of fruits and vegetables; to authorize the Commissioner of Agriculture of this State to promulgate and publish said standard for the information of the public, and promulgate standards of containers, grades and packs, in conformity with those hereafter established by the Secretary of Agriculture of the United States, and to promulgate such other standards of containers, grades and packs as in his judgment are expedient and to the best interests of the fruit and truck growers of the State; providing for supervision of the grading and packing of fruits and vegetables through State inspectors to be appointed by the Commissioner of Agriculture; empowering the Commissioner of Agriculture to enforce the provisions of this Act; prescribing penalties for its violation and declaring an emergency," with engrossed rider.

H. B. No. 818, A bill to be entitled "An Act to so amend Section 18, Chapter 15 of the Acts of the Thirty-second Legislature of the State of Texas, providing for a special road system for Ellis County, etc.," with engrossed rider.

S. B. No. 359, A bill to be entitled

"An Act to provide for the holding of an election to determine whether hogs, sheep or goats may run at large in the counties of Henderson and Anderson, of this State, during only those months of each year designated in the petition; providing that elections may be held therein, and declaring an emergency."

Request the Senate to return S. C. R. No. 15 for further consideration.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair (Lieutenant Governor Hobby) had referred, after their captions had been read, the following House bills:

H. B. No. 419, referred to the Committee on Agricultural Affairs.

H. B. No. 339, referred to the Committee on State Penitentiaries.

H. B. No. 818, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 837, referred to the Committee on Finance.

H. B. No. 319, referred to the Committee on Civil Jurisprudence.

Senate Joint Resolution No. 1—Set as Special Order.

Senator Lattimore asked for unanimous consent to set as a special order S. J. R. No. 1 for tomorrow at the conclusion of the morning call.

There was objection.

Senator Lattimore moved to set as a special order S. J. R. No. 1 for 10 o'clock tomorrow.

Senator Hudspeth as a substitute moved to set S. B. No. 248 for special order at the hour named.

Senator Dayton moved to table the substitute and the motion prevailed by the following vote:

Yeas—17.

Alderdice.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Suiter.
Gibson.	Woodward.
Hopkins.	

Nays—11.

Bailey.	Johnston of Harris.
Bee.	King.
Caldwell.	McCollum.
Clark.	Page.
Harley.	Parr.
Hudspeth.	

Absent.

Hall.	Westbrook.
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Absent—Excused.

Henderson.

The motion to set as a special order S. J. R. No. 1 for 10 o'clock tomorrow prevailed by the following vote:

Yeas—18.

Alderdice.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Sulter.
Gibson.	Westbrook.
Hopkins.	Woodward.

Nays—11.

Bailey.	Johnston of Harris.
Bee.	King.
Caldwell.	McCollum.
Clark.	Page.
Harley.	Parr.
Hudspeth.	

Absent.

Hall.

Absent—Excused.

Henderson.

Senator Hudspeth raised the point of order that a vote of two-thirds majority is required to set a matter as a special order.

The Chair overruled the point of order, holding that where the rules do not specify that a two-thirds vote is required, matters will be disposed of by a majority vote.

House Bill No. 364—Set as Special Order.

By unanimous consent and on request of Senator Johnson of Hall, H. B. No. 364 was set as a special order at the conclusion of the morning call tomorrow.

Senate Bill No. 319—Set as Special Order.

By unanimous consent and on request of Senator Page S. B. No. 319 was set as a special order following consideration of H. B. No. 364.

Senate Bill No. 480—Printed.

On motion of Senator Parr S. B. No. 480 was ordered printed in today's Journal. The bill in full will be found in the appendix.

Senate Bill 248—Set as Special Order.

By unanimous consent and on request of Senator Hudspeth, S. B. No. 248 was set as a special order for 2 o'clock p. m. tomorrow.

Senate Bill No. 136 and House Bill No. 237 Set as Special Orders.

By unanimous consent and on request of Senator Hall, S. B. No. 136 and House Bill No. 237 were set for tomorrow at the conclusion of the morning call.

Message From the House.

Hall of the House of Representatives
Austin, Texas, March 12, 1917.

Hon W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 250,, A bill to be entitled "An Act to amend Section 50a, Chapter 100, Acts of the Regular Session of the Thirty-second Legislature, relating to the authority of commissioners courts to create county line school districts; so as to authorize boards of county school trustees to create such districts and prescribing the manner whereby such districts may be created, and declaring an emergency."

H. B. No. 460, A bill to be entitled "An Act providing that in all incorporated cities and towns of this State having a population of fifty thousand inhabitants or more, according to the last United States

census, and which maintain a regular police department, the patrolmen thereof, or those performing duties ordinarily performed by patrolmen shall be required to serve on actual duty as patrolmen not longer than eight hours in every twenty-four hours; providing that in case of riot or other emergency such patrolmen shall perform such duty as the directing authority of the department shall require, and declaring an emergency."

H. B. No. 582, A bill to be entitled "An Act regulating the manner of service of subpoenas issued in any civil or criminal action or upon any proceeding before an examining court, coroner's inquest, grand jury or before a judge hearing an application under habeas corpus, or in any case or matter where any witnesses may be summoned; authorizing the execution of such subpoena either by reading the same in the presence of the witness or by reading the same over the telephone, or by posting a certified copy of the same in the mails by registered letter; providing that no mileage shall be charged for the service had over the telephone or by mail; providing that expense of telephone calls, postage, and registration fees may be charged as costs; providing for personal service in event returned receipt is not received; providing that the parties, or their attorneys, or any court or grand jury may designate the method of service; providing for the making of return on such subpoena by the officer; repealing Article 3642 of the Revised Civil Statutes, 1911, and Article 527, Code of Criminal Procedure, 1911, and declaring an emergency," with engrossed rider.

Requests the Senate to return S. B. No. 368 for roll call.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Senate Bill No. 42.

(Pending.)

Action recurred upon pending business, Senate Bill No. 42, the question being upon the adoption of the committee report, carrying a committee substitute bill.

Senator Dean offered the following

amendment to the committee report, and it was adopted:

Amend the committee report by adding after the word "thereof" and before the word "Bailey" the following: "and that said bill be not printed and that said committee substitute be not printed and be printed in the Journal only."

Senator Dayton offered the following amendment to the committee report, which was adopted:

Amend the committee substitute by striking out the enacting clause of said substitute.

The committee report as amended was adopted.

(Senator Gibson in the chair.)

Senator Buchanan of Bell offered the following amendment, which was read and adopted:

(1) Amend Senate Bill No. 42 by adding to Section 23, after the word "admitted," the words "as prima facie evidence of the facts therein stated."

Senator Page moved to consider Senate Bill No. 42, section by section.

Senator Buchanan of Bell moved to table the motion of Senator Page, and the motion to table prevailed by the following vote:

Yeas—12.

Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Lattimore.
Dayton.	McNealus.
Dean.	Robbins.
Decherd.	Smith.
Gibson.	Suiter.

Nays—10.

Bee.	Johnston of Harris.
Caldwell.	King.
Clark.	McCollum.
Hopkins.	Page.
Hudspeth.	Parr.

Absent.

Floyd.	Strickland.
Harley.	Woodward.

Absent—Excused.

Henderson.

Pairs Recorded.

Senator Hall (present), who would vote "nay"; Senator Alderdice (absent), who would vote "yea."

Senator Bailey (present), who would

vote "nay"; Senator Westbrook (absent), who would vote "yea."

Senator Bailey offered the following amendment:

Amend substitute Senate Bill No. 42 by striking out all of Section 7, numbering the remaining sections consecutively and making the caption and bill conform to this amendment.
Pending.

Question of No Quorum.

Pending the reading of Senate Bill No. 42 in full, Senator Bailey raised the point of no quorum and moved that the roll be called for the purpose of ascertaining whether or not a quorum was present.

The motion being duly seconded, the roll was called, the following Senators answering to their names:

Present—21.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Parr.
Clark.	Robbins.
Dayton.	Smith.
Dean.	Suiter.
Decherd.	Westbrook.
Gibson.	

Absent—10.

Floyd.	McCollum.
Hall.	Page.
Harley.	Strickland.
Johnston of Harris.	Woodward.
King.	

Absent—Excused.

Henderson.

Message From the House.

Hall of the House of Representatives,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 372, A bill to be entitled "An Act conferring upon the State Revenue Agent power to require the lessees or users of any facility or thing furnished by any person, corporation, receiver, or association in

pursuing any occupation taxed by Chapter 2, Title 126, of the Revised Statutes, 1911, or any amendment or supplement or extension thereof, and to require any person, corporation, receiver, or association interested in, but not pursuing, any occupation so taxed, or interested in the subject of such occupation, to furnish information or sworn reports of information necessary to the enforcement of the payment of any tax levied under such laws, and declaring an emergency."

S. B. No. 268, A bill to be entitled "An Act directing the State Superintendent of Public Instruction to require the county judges, county, city and town superintendents, county and city treasurers and depositories of school boards and other school officers and teachers certain reports relating to school funds and school affairs; providing that the State Superintendent shall furnish blanks for such purpose; providing a penalty for a failure on the part of such officers to make such reports within twenty days after required by the State Superintendent, and declaring an emergency," with amendment.

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

Refusal to Adjourn.

At 6:05 o'clock p.m. Senator Clark moved that the Senate adjourn until 10 o'clock tomorrow.

The motion was lost by the following vote:

Yeas—12.

Bailey.	Hopkins.
Bee.	Hudspeth.
Caldwell.	Johnston of Harris.
Clark.	McCollum.
Gibson.	Page.
Hall.	Parr.

Nays—12.

Alderdice.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Dayton.	Smith.
Dean.	Suiter.
Floyd.	Westbrook.

Absent.

Decherd.	Robbins.
Harley.	Strickland.
King.	Woodward.

Absent—Excused.

Henderson.

Adjournment.

Pending further reading of Senate Bill No. 42, Senator Clark moved that the senate adjourn until 10 o'clock tomorrow.

The motion prevailed by the following vote:

Yeas—16.

Bailey.	Hudspeth.
Bee.	Johnston of Harris.
Caldwell.	King.
Clark.	McCollum.
Gibson.	Page.
Hall.	Parr.
Harley.	Smith.
Hopkins.	Woodward.

Nays—11.

Alderdice.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Dayton.	Sulter.
Dean.	Westbrook.
Floyd.	

Absent.

Decherd.	Strickland.
Robbins.	

Absent—Excused.

Henderson.

APPENDIX.**Petitions and Memorials.**

Senator Floyd sent up a telegram from W. J. Bryan, stating he would be in Austin Saturday to address the Legislature.

A memorial to Secretary John D. McCall was read from Mrs. Funston, expressing appreciation for the resolution adopted in memory of General Funston.

Senator Buchanan of Scurry offered a telegram from Abilene, Texas, numerous signed, supporting De Be-gory resolution, on judicial reform.

Senator Buchanan of Bell offered a numerous signed petition endorsing Senate Bill No. 425, the Torrens Land Bill.

Engrossing Committee Reports.

Committee Room,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 351 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 466 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 326 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 46 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 339 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 479 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 423 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 200 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 58 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 94 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 473 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 468 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 78 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 470 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 475 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

(Floor Report.)

Senate Chamber,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred

S. B. No. 480, A bill to be entitled "An Act to prohibit black listing by labor organizations and members thereof, of members of the Legislature of Texas and of candidates for office who are or have been members of the Legislature of the State of Texas, to define the offense of such black listing and to prescribe the punishment therefor and to fix the venue of prosecutions under this Act, and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

Dayton, Chairman; Page, Bailey, Decherd, Johnston of Harris, Buchanan of Bell.

By Parr.

S. B. No. 480.

A BILL
To Be Entitled

An Act to prohibit blacklisting by labor unions, labor organizations and members thereof, of members of the Legislature of Texas and of candidates for office who are or have been members of the Legislature of the State of Texas, to define the offense of such blacklisting and to prescribe the punishment therefor and to fix the venue of prosecutions under this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful for labor organizations and labor unions, whether incorporated or voluntary associations, and for any member thereof, to cause to be written, printed, issued or circulated any letter, paper, list, book or pamphlet showing how any member of the Senate or the House of Representatives of the State of Texas has voted for or against any bill or bills or any amendment offered thereto, either on the floor of the Senate or House or in any committee of the Senate or House, in which any such labor organization or labor union was interested, for or against, when such writing, printing or circulation shall be done for the purpose of influencing or affecting the vote of any such member of the Legislature on any future measure or with any intent or purpose of attempting to promote the election or to prevent the election of such member to any office under the laws of the State of Texas, including membership in the Senate or House of Representatives thereof, and any act hereby made unlawful shall constitute the offense of blacklisting which is hereby prohibited.

Sec. 2. Any member of any labor union or organization described in Section 1 of this Act who shall alone or acting with any other person or persons, commit the offense or do any act forbidden or prohibited by Section 1 of this Act shall be guilty of blacklisting, which is hereby made a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars and by imprisonment in the

county jail not exceeding twelve months. Any such labor organization or union which is incorporated which shall violate any provision of Section 1 of this Act, for each offense shall be liable for a penalty of not more than \$5,000.00, which may be recovered by the State of Texas in any suit filed by the Attorney General or the District or County Attorney in any county in which any act or any part of any act prohibited by Section 1 hereof may have been committed.

Sec. 3. Any person violating this Act may be indicted or prosecuted in any county in which any act or any part of any act prohibited by Section 1 hereof may have been committed.

Sec. 4. Nothing in this Act shall prohibit orderly discussion at any public meeting at which the general public shall have the right to congregate, or in any newspaper of general circulation, of the votes or acts of any member of the Legislature.

Sec. 5. The near approach of the end of the present session and the crowded condition of the calendar, together with the importance of the legislation contained herein creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring that bills shall be read on three several days in each house shall be suspended, and said rule is suspended and this Act take effect and be in force from and after its passage and it is so enacted.

(Floor Report.)

Senate Chamber,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 476, A bill to be entitled "An Act creating the Bertram Independent School District in Burnet County, Texas, including the present Bertram Independent School District; providing for a board of trustees in said independent school district; conferring upon said district and its board of trustees all of the rights, powers, privileges and duties now conferred and imposed by the General Laws of this State upon independent school districts and

the board of trustees thereof; providing that no clause or section of this Act shall interfere in any way with outstanding bonded indebtedness of the present Bertram Independent School District or the local maintenance tax heretofore levied and collected in said district, and declaring an emergency."

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

BEE, Chairman.

(Floor Report.)

Senate Chamber,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 351, A bill to be entitled "An Act providing that the history of the State of Texas shall be taught in the history course of all public schools in Texas; giving the State Superintendent of Public Instruction certain powers in regard thereto and providing a penalty for violation of this Act,"

Have had said bill under consideration and beg to report the same back to the Senate with the recommendation that it do pass.

Bee, Chairman; Decherd, Buchanan of Scurry, Alderdice, Bailey, Floyd, Smith, Robbins, Page.

Committee Room,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Commerce and Manufactures, to whom was referred

S. B. No. 450, A bill to be entitled "An Act to amend Article 5661, Revised Civil Statutes of Texas, 1911, Title 86, Chapter 7, relating to the registration of chattel mortgages and to provide the effect to be given to the registration of such mortgages where the same relates to property sold to be thereafter attached to the realty as a fixture; to provide for a special book in which such chattel mortgage shall be registered; to regulate the manner of registering same, and to repeal all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed, but be printed in the Journal.

Lattimore, Chairman; Johnson, Strickland, Floyd, McNealus, Gibson.

By Sulter.

S. B. No. 450.

A BILL To Be Entitled

An Act to amend Article 5661, Revised Civil Statutes of Texas, 1911, Title 86, Chapter 7, relating to the registration of chattel mortgages and to provide the effect to be given to the registration of such mortgages where the same relates to property sold to be thereafter attached to the realty as a fixture; to provide for a special book in which such chattel mortgages shall be registered; to regulate the manner of registering same, and to repeal all laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Article 5661 of the Revised Civil Statutes of Texas of 1911, Title 86, Chapter 7, is hereby amended so as to read as follows:

Chattel mortgages and other instruments intended to operate as mortgages or liens upon personal property shall not hereafter be recorded at length as heretofore required; and when deposited and filed in accordance with the provisions of this law, shall have the force and effect heretofore given to a full registration thereof, and all persons shall be thereby charged with notice thereof, and of the rights of the mortgagee, his assignee or representatives thereunder, but nothing herein contained shall be so construed as to in any manner affect the rights of any person under any instrument heretofore recorded, as required by law. Provided, that when any machinery or other manufactured article is susceptible of being attached to the realty in such a way as to become a fixture thereto and is located upon any real estate in such manner as the same may be deemed a fixture thereto, and at the time of its location upon such real estate there is a lien or mortgage evidenced

by written instrument or an instrument reserving title in such machinery or other manufactured article to secure an indebtedness thereon, executed by the purchaser or owner of such machinery or other manufactured article at the time of its location on such real estate, and the instrument evidencing said lien, mortgage or reservation of title contains a description of said machinery or other manufactured article, as well as the real estate upon which it is located or situated, reasonably sufficient to identify said real estate, and such instrument is registered under the provisions of this Act, then the registration of such instrument evidencing said lien, mortgage, or reservation of title as provided for by this Act, shall be notice to all persons thereafter dealing with or acquiring any right or interest in said machinery or other manufactured article, or the realty upon which the same is located or other improvements or property situated on said real estate, of all of the rights of the owners or holders of the indebtedness secured by said instrument the same as if recorded at length in the deed records or records of mortgages upon realty of the county where the real estate is situated; and such lien, mortgage or reservation of title upon or to such machinery or other manufactured articles shall be as to such machinery and other manufactured articles superior to any lien or rights existing in any one to said real estate or other improvements or other property located and situated thereon existing at the time of the location of said machinery or other manufactured article thereon, but nothing herein contained shall be held to give the holder of such lien, mortgage or reservation of title any right to or claim upon the real estate save and except the right to establish and foreclose his lien, mortgage, or reservation of title upon such machinery or other manufactured article, and to enforce his rights thereto under the instrument evidencing his lien, mortgage or reservation of title, as in other cases of liens upon personal property hereunder. Provided further that all such instruments shall be endorsed on the back thereof, to wit: "Liens on Machinery Situated on Realty," and shall be registered in the county the said real estate is located in, in the same manner as other chattel

mortgages except that there shall be kept indexed and recorded, as now herein provided for chattel mortgages, a separate book to be endorsed "Chattel Mortgage Records for Machinery on Realty." The record thereof shall in addition to the other requirements of this Act contain a brief description of said real estate to which said fixtures are to be attached.

Sec. 2. All laws in conflict herewith are hereby repealed.

Sec. 3. Owing to the fact that many dealers in engines, boilers and other character of machinery that are ordinarily sold so as to become attached to the realty are not now protected by adequate registration laws, and owing to the lateness of the session, an imperative public necessity exists for the suspension of the constitutional rule requiring bills to be read upon three several days, and further that this bill should become a law immediately upon its enactment by virtue of the emergency and public necessity hereinbefore set forth.

Committee Room,

Austin, Texas, March 10, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred

H. B. No. 615, A bill to be entitled "An Act to amend Chapter 77 of the General Laws of the Thirty-second Legislature, approved March 17, 1911, and entitled 'An Act to provide for the location, establishment and maintenance of two colonies for the treatment of persons suffering from tuberculosis and to provide for the care and treatment of indigent consumptives, and making an appropriation therefor; defining a "citizen" as used in this Act, and declaring an emergency,' as amended by the Act of March 31, 1913, by adding thereto Sections 22, 23 and 24, authorizing charitable fraternities or societies in this State to erect upon the grounds of the State Tuberculosis Sanitarium accommodations for the preferential use of their own members and their families and the widows and children of their deceased members, such persons to be otherwise admitted, maintained, cared for and treated in said sanitarium under the same rules and regulations as other patients thereof, and declaring an emergency,"

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

McNealus, Chairman; Clark, Decherd, Smith, Strickland, Bee.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 249, A bill to be entitled "An Act to amend Article 1903 of the Revised Civil Statutes of the State of Texas, 1911, so as to render a verified plea of privilege prima facie proof of the right of the defendant to change of venue and providing for procedure thereon,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed, but be printed in the Journal.

BAILEY, Chairman.

By Fairchild and H. B. No. 249.
Valentine.

A BILL
To Be Entitled

An Act amending Article 1903 of the Revised Civil Statutes of the State of Texas of 1911, so as to render a verified plea of privilege prima facie proof of the right of the defendant to change of venue and providing for procedure thereon.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1903 of the Revised Civil Statutes of Texas for 1911 be amended so as to hereafter read as follows:

Article 1903. A plea of privilege to be sued in the county of one's residence shall be sufficient, if it be in writing and sworn to, and shall state that the party claiming such privilege was not, at the institution of such suit, nor at the time of the service of such process thereon, nor at the time of filing such plea, a resident of the county in which such suit was instituted and shall state the county of his residence at the time of such plea, and that none of the exceptions to the exclusive venue in the county of one's residence mentioned in Article 1830 or Article

2308 of the Revised Statutes exist in said cause, and such plea of privilege when filed shall be prima facie proof of the defendant's right to change of venue. If, however, the plaintiff desires to controvert the plea of privilege, he shall file a controverting plea under oath, setting out specifically the fact or facts relied upon to confer venue of such cause on the court where the cause is pending. Upon the filing of such controverting plea the judge or the justice of the peace shall note on same a time for a hearing on the plea of privilege; provided, however, that the hearing thereon shall not be had until a copy of such controverting plea, including a copy of such notation thereon, shall have been served on each defendant, or his attorney, for at least ten full days exclusive of the day of service and day of hearing. If the parties agree upon a date for such hearing it shall not be necessary to serve the copy above provided for. Either party may appeal from the judgment sustaining or overruling the plea of privilege, and if the judgment is one sustaining the plea of privilege and an appeal is taken, such appeal shall suspend the transfer of the venue and a trial of the cause pending the final determination of such appeal.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 795, A bill to be entitled "An Act creating and incorporating the Goldthwaite Independent School District in Mills County, Texas, including the town of Goldthwaite; defining its boundaries; providing for a board of trustees, and assuming all contracts, debts, including bonded indebtedness of Goldthwaite Independent School District, investing said district with all the rights, privileges and duties of an independent school district created under the General Laws of the State of Texas for free school purposes only; and vesting in said district the title to all property now owned by the Goldthwaite Independent School District heretofore created under the

General Laws, and declaring an emergency,"

Have had the same under consideration, and we now beg leave to report the same back to the Senate with the recommendation that it do pass and be not printed.

BEE, Chairman.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Public Debt, Claims and Accounts, to whom was referred

H. B. No. 365, A bill to be entitled "An Act to permit S. S. Perry of Brazoria County, Texas, to bring suit against the State of Texas for an alleged damage growing out of an alleged breach of contract entered into by and between the said S. S. Perry and the Board of Prison Commissioners, dated September 20, 1911,"

Have had the same under consideration, and beg to report it back to the Senate, with the recommendation that it do pass, as amended by the House, and be not printed, but be printed in the Senate Journal.

Suiter, Chairman; Floyd, Alderdice, Buchanan of Bell, Robbins, McNealus, McCollum.

By Williams of Brazoria. H. B. No. 365.

A BILL
To Be Entitled

An Act to permit S. S. Perry of Brazoria County, Texas, to bring suit against the State of Texas for an alleged damage growing out of an alleged breach of contract entered into by and between the said S. S. Perry and the Board of Prison Commissioners, dated September 20, 1911.

Be it enacted by the Legislature of the State of Texas:

Section 1. That in order to ascertain what, if any, compensation or damages is due S. S. Perry of Brazoria County, by reason of an alleged breach of a written contract for the sale and purchase of sugar cane, made and entered into by and between S. S. Perry, party of the second part, and Ben E. Cabell, chairman of the Board of Prison Commissioners, Louis W. Tittle, Prison Commissioner, and R.

W. Brahan, Prison Commissioner acting on behalf of the State of Texas, in their official capacities, parties of the first part, dated September 20, 1911, the said S. S. Perry is authorized to institute suit against the State of Texas in the district court of Brazoria County, Texas, which may be tried at the September term, A. D. 1917, of said court, or any succeeding term thereafter, after ten days' service of process on the Attorney General of the State of Texas, with the right of appeal to both parties, and the sum of eight thousand dollars (\$8,000.00), or so much thereof as may be necessary, is appropriated out of any funds in the treasury not otherwise appropriated, to pay whatever sum, if any, due to the said S. S. Perry, and the Comptroller shall draw his warrant in favor of the said S. S. Perry, if successful in said suit, upon the Treasurer for the amount of said judgment, who shall pay the same. The venue of any suit or suits that may be instituted by the said S. S. Perry in accordance with the provisions of this Act shall be in the district courts of Travis County, Texas.

Engrossed Riders to House Bill No. 365.

Amend House Bill No. 365 by adding at the end of Section 1 the following:

"The venue of any suit or suits that may be instituted by the said S. S. Perry in accordance with the provisions of this Act, shall be in the district courts of Travis County, Texas."

Adopted.

BOB BARKER,
Chief Clerk House of Representatives.

Amend House Bill No. 365 by striking out all after the word "parties" in line. 26.

Adopted.

BOB BARKER,
Chief Clerk House of Representatives.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred,

H. B. No. 323, A Bill to be entitled "An Act to amend Arts. 3826, 3827 and 3828 of Title 57

of the Revised Statutes of the State of Texas (1911) and to add thereto Arts. 3828a and 3828b, defining commission merchants and requiring all commission merchants dealing in agricultural, horticultural, and farm products, and poultry, other than livestock dealers and corporations chartered under Chapter 5, Acts of the Second Called Session of the Thirty-third Legislature, to take out a license through the Commissioner of Agriculture, paying a fee therefor, authorizing them to do business in this state; providing that they shall give bond to be approved by the Commissioner of Agriculture, and prescribing the terms and conditions of said bond; providing for making certain reports by all commission merchants, requiring them to keep certain books and records and to submit all books, records and 'sale tickets' to the Commissioner of Agriculture, or his authorized agents whenever demanded, authorizing the Commissioner of Agriculture to refuse to issue licenses to persons not of good moral character, and to cancel licenses for failure to make reports or submit books, records, and sales tickets for inspection, or for fraud or dishonest dealing, as provided by this Act; authorizing the Commissioner of Agriculture to employ marketing agents to assist in enforcing the provisions of this law; fixing the venue, prescribing penalties for the violation of the provisions of this Act, and declaring an emergency."

Have had the same under consideration, and we now beg leave to report the same back to the Senate with the recommendation that it do pass and be printed in the Journal only.

WOODWARD, Chairman.

By Baker, et al. H. B. No. 323.

A BILL
To Be Entitled

An Act to amend Articles 3826, 3827 and 3828, of Title 57, of the Revised Civil Statutes of the State of Texas (1911), and to add thereto Articles 3828a and 3828b, defining Commission Merchants and requiring all commission merchants dealing in agricultural, horticultural and farm products, and poultry, other than livestock

dealers and corporations chartered under Chapter 5, Acts of the Second Called Session of the Thirty-third Legislature, to take out a license through the Commissioner of Agriculture, paying a fee therefor, authorizing them to do business in this State; providing that they shall give bond to be approved by the Commissioner of Agriculture, and prescribing the terms and conditions of said bond; providing for making certain reports by all commission merchants, requiring them to keep certain books and records and to submit all books, records and "sales tickets" to the Commissioner of Agriculture, or his authorized agents, whenever demanded; authorizing the Commissioner of Agriculture to refuse to issue licenses to persons not of good moral character, and to cancel licenses for failure to make reports or submit books, records, and sales tickets for inspection, or for fraud or dishonest dealing, as provided by this Act; authorizing the Commissioner of Agriculture to employ marketing agents to assist in enforcing the provisions of this law; fixing the venue, prescribing penalties for the violation of the provisions of this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Articles 3826, 3827 and 3828 of the Revised Civil Statutes of the State of Texas, 1911, be amended to hereafter read as follows, and that Articles 3828a and 3828b be added thereto to read as follows:

Article 3826. Any person, firm or corporation pursuing or who shall pursue the business of selling produce or goods, wares, or merchandise of any kind, upon consignment for a commission, or who shall act as a "sales agent" for individuals or associations of fruit and truck growers, shall be deemed to be a commission merchant.

Article 3827. Every commission merchant doing business in this State, whether a natural person, persons, or corporation, dealing in agricultural, horticultural and farm products, including poultry, other than live stock dealers, and corpora-

tions chartered under Chapter 5, General Laws, enacted at the Second Called Session of the Thirty-third Legislature, shall be required to make application to the Commissioner of Agriculture of this State for a license authorizing said commission merchant to transact business in this State.

Said application must be accompanied by a certificate from the county judge of the county in which said applicant resides, setting forth that the applicant is a person of integrity and good moral character, and that he is capable of transacting the business of commission merchant in an honest and business-like manner. The application, if made by person or persons, shall state his or their age, occupation and residence, together with a classification of the property owned by him or them, giving the kind, character, amount and assessed value of said property above all exemptions and encumbrances and also the amount of money they have invested or propose to invest in the commission business. The application must be sworn to before a notary public by applicant, or majority of applicants, where more than one composes the firm. If the applicant is a corporation the application shall be accompanied by a certified copy of the charter of the corporation, together with the schedule of its property and a list of its debts, and there shall be presented with the application a certificate from the county judge of the county in which the corporation proposes to do business, as to the reputation, honesty, and fair dealing of the managing officer or officers of the corporation, the same as that required of the applicant when said applicant is a natural person and the provisions of this section relative to applications and recommendations and duties of the Commissioner of Agriculture upon the applications of natural persons, shall apply to applications by corporations, in so far as they are applicable. If for any reason the county judge will not issue such recommendation, then the applicant may set up such fact in the application and furnish such other evidence of good moral character, business reputation, and honest dealing as may be required by the Commission-

er of Agriculture before any license shall be issued.

A license shall not be issued to any person or persons whose general reputation for honesty and fair dealing is not good.

The application shall also be accompanied by a bond, in such an amount as may be required by the Commissioner of Agriculture, not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00), to be made by two or more solvent sureties whose property is worth double the amount of the bond over and above debts and exemptions, or made by some responsible bonding company authorized to do business in Texas. The bond shall be made payable to the Commissioner of Agriculture and his successors in office, conditioned that the applicant will conduct a commission business in accordance with the provisions of this law, and the requirements of the Commissioner of Agriculture. The bond shall be examined carefully by the Commissioner of Agriculture, and if found to be in proper form and the sureties solvent, he shall approve it and file the same in his office and issue the necessary license to the applicant and collect a fee of not less than \$2.50 nor more than \$10.00 for same; the fee to be graduated as nearly as possible according to the capital stock and amount of business done, to be determined by the Commissioner of Agriculture. And no license shall be issued until the bond is approved and the license fee paid by the applicant. The said license shall authorize the person or corporation receiving the same to transact a commission business in the State for a period of one year from date of issuance, and all license fees collected by the Commissioner of Agriculture shall be deposited in the State Treasury to the credit of the State Department of Agriculture and used by the Commissioner of Agriculture to employ market men to assist in enforcing the provisions of this law, and to protect honest shippers and honest dealers against unjust and dishonest practices now prevailing in the commission business, and the Commissioner of Agriculture is hereby authorized to employ such market men to assist in enforcing the provisions of this law.

Said bonds shall not be void upon the first recovery thereon, but may be sued

upon until the amount therein is exhausted; provided, however, that when said bond is impaired or exhausted by suits of recovery, the Commissioner of Agriculture shall require the filing of a new bond in the same amount, and upon the same conditions as in the filing of the original bond, and said new bond shall be liable for all contracts and agreements entered into between the commission merchant and shippers or consignors prior to the impairment or exhaustion of the first bond, and subsequent thereto for any loss or damage that may be sustained by any shipper or consignor.

Article 3828. All commission merchants authorized and licensed to do business under the provisions of the preceding article, and all "sales agents" for fruit and truck growers associations, shall be required to make reports under oath to the Commissioner of Agriculture, upon blank forms to be prescribed by the Commissioner of Agriculture. Said reports shall be made on the first day of September and the first day of March of each year, and additional reports shall be made whenever called for by the Commissioner of Agriculture. These reports shall show in detail the amount, kind and character of produce handled, and its approximate value, during the period of time covered by the report.

Each and every commission merchant or corporation doing a commission business under the terms and provisions of this Act shall be required to keep a set of books, showing in detail the kind, character and amount of produce received and sold for the account of shippers and consignors, or purchased and sold for a cash consideration, giving the number of carloads received and disposed of, from whom received and the kind, character and value of amounts less than carloads, including the value of poultry and eggs, and every character of agricultural, horticultural and farm products received and sold. They shall retain a copy of "sales tickets" for each and every lot of produce sold "on commission," and shall preserve said "sales tickets" for a period of thirty days for the inspection of shippers, consignors and the Commissioner of Agriculture or his authorized agents.

The Commissioner of Agriculture is hereby authorized and empowered

to investigate the books, records and "sales tickets" of all commission merchants, or corporations doing a commission business under the provisions of this Act, or to have such investigation made by any authorized agent for the purpose of determining the condition of the business affairs and the method and manner of transacting such business of any person or corporation doing a commission business under the provisions of this Act.

Failure or refusal of any person or corporation licensed to do a commission business under the terms and provisions of this Act, to submit their books, papers and records to the inspection of the Commissioner of Agriculture or his authorized agents, shall be sufficient grounds for the revocation of the license of such person or corporation and the Commissioner of Agriculture shall cancel the license for such failure to comply with this provision of the law.

The cancellation of the license issued to any commission merchant or corporation doing a commission business shall be affected by the Commissioner of Agriculture writing on his records opposite the name of the person or corporation whose license he proposes to cancel the words "Cancelled," and giving the date and reasons therefor, and mailing a letter to the person or corporation whose license is cancelled, apprising such person or corporation of the facts as noted in the record. When a license has been cancelled the Commissioner of Agriculture may hear evidence in favor of reinstating such license, and when the evidence justifies such reinstatement and the party or parties whose license has been cancelled agrees to abide by the provisions of this Act and the rules and regulations of the Commissioner of Agriculture, then said license may be reinstated.

Article 3828a. Each and every commission merchant and corporation doing a commission business under the provisions of this Act shall honestly and faithfully carry out all contracts and agreements entered into by and between them and shippers and consignors, in regard to the purchase, sale and distribution

of agricultural, horticultural and farm products.

They shall promptly grade, classify and sell all products received by them to be sold for the account of any shipper, and make prompt returns to the shipper, giving account of sales and remitting the proceeds of all sales, less freight or express charges, and not exceeding ten per cent commission charges.

Whenever any shipment of produce is received in bad condition the consignee shall at once notify any agent or representative of the Commissioner of Agriculture, if such agent or representative is located in the city or town where the produce is received, requesting said agent or representative to come and examine the produce and make a record of the same. Said agent or representative of the Commissioner of Agriculture when so notified shall at once proceed to examine the produce and make a report of the same, in writing, or by telegraph or telephone, to the consignor, and he shall preserve a record of such report, giving the name or names and postoffice address of the consignee and consignor and the date of the receipt of such produce and the marketable condition of such produce when examined. If the Commissioner of Agriculture has no representative in said city or town, then the consignee shall notify the consignor by telegraph or telephone of the conditions of such shipment of produce, and proceed to sell it or dispose of it to the best advantage possible, making prompt remittances, as hereinbefore provided. Where produce is graded and the commission merchant grades it lower than that placed upon it by the consignor, he shall immediately notify the consignor by telegraph or telephone that the grade has been lowered, naming the grade to which it has been lowered.

Article 3828b. Any person, firm or corporation engaging in the commission business in this State for the purpose of handling agricultural, horticultural and farm products and poultry, without first procuring a license as provided for in this Act, or who shall continue in such business after said license has been cancelled, or who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor and

upon conviction shall be fined in any sum not less than one hundred (\$100) dollars and not more than five hundred (\$500) dollars.

Whenever any shipper or consignor is damaged or defrauded by any person, firm or corporation doing a commission business under the provisions of this Act, such shipper or consignor shall be entitled to actual damages plus court costs secured through the usual process of law. Such suits may be brought in the county of defendant's residence or in any county where such defendant has an agent, or in the county where the goods and articles shipped were delivered to the carrier for shipment to such commission merchant; and this law shall be cumulative of laws providing damages in suits of this character.

Sec. 2. The importance of this legislation and the necessity of adequate protection for shippers of farm and orchard products creates an emergency and an imperative public necessity which requires that the constitutional rule requiring all bills to be read on three several days be suspended and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

(Floor Report.)

Senate Chamber.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your committee on State Affairs, to whom was referred S. B. No. 348, A bill to be entitled "An Act to amend Title 115, Chapter 15, of the Revised Civil Statutes of this State by adding immediately following Article 6653 a new article to be known as Article 6653a, and providing in substance that the Railroad Commission of Texas shall hereafter be known as the Railroad and Public Utilities Commission of Texas, and providing that it shall have as a seal a star of five points with the words "Railroad and Public Utilities Commission of Texas" engraved thereon; making all laws applicable to the Railroad Commission applicable to the Railroad and Public Utilities Commission, notwithstanding this change of name and the additional duties conferred by this Act; and also to amend Sec-

tion 1, Chapter 86, General Laws passed by the regular session of the Thirty-second Legislature; and which was "An Act conferring authority upon the Railroad Commission, and making it its duty to adopt all necessary rates, charges and regulations to govern and regulate persons, associations and corporations, private or municipal, owning or operating public wharves, docks, or piers, and all property used in connection therewith, or suburban, belt or terminal railroads in Texas, and to fix divisions of rates, charges and regulations between the same and railroads and all other common carriers under the control of the Railroad Commission where a division is proper; providing that all laws made and prescribed for the government and control of railroads, shall, as far as applicable, be of equal force against such persons, associations and corporations; authorizing the commission to require reports of such persons, associations and corporations, and giving to said commission power to correct abuses and prevent unjust discrimination and extortion in rates and charges, of such persons, associations and corporations or any abuse by same; providing penalties for the violations of this Act, and declaring an emergency," by amending Section 1 thereof so as to confer the power and authority upon the Railroad and Public Utilities Commission of Texas over all public wharves, docks and piers, and all elevators, warehouses, sheds, tracts and other property used in connection therewith in the State of Texas, and over all suburban, belt and terminal railroads in this state, and over all telephone and telegraph companies, operating long distance lines fifty miles in length and over as to intrastate long distance calls, over all express companies, whether operating on or in connection with steam railroads or electric or interurban railroads as to intrastate traffic, over all pipe lines or companies transporting oil or gas for the public as to intrastate traffic, over all interurban and electric car lines or companies operating from one point to another within this state as to intrastate traffic, over all electric light and power companies conveying electricity for any purpose from one point to another in this state,

and over all persons, associations and corporations, private or municipal, owning or operating any such railroad, electric railway, interurban railway, express company, wharf, dock, pier, elevator, warehouse, shed, tract or other property, and all such telephone and telegraph lines, pipe lines and electric light and power lines; making it the duty of the commission to fix and adopt all necessary rates, charges and regulations to govern the utilities or utility companies named, correct abuses, prevent unjust discrimination, fix divisions of rates and charges; making all laws of the state and rules of the Railroad Commission with reference to making rates and with reference to complaints, notices, appearances, the manner and methods of hearings, rights of action and trial, and other statutes with reference to procedure concerning or governing the Railroad Commission with reference to railroads, applicable to the utilities above named, and according them the same rights and remedies as railroads; making all statutes with reference to the government, control, management and regulations of railroads by the commission and penalties for disobedience of its orders so far as they may be made so, applicable to the utilities above named; declaring that all other provisions of Chapter 86 of the General Laws of the Thirty-second Legislature applicable as though the provisions of this section had been embraced in the original Section 1, of said chapter and declaring an emergency,"

Have had same under consideration and beg to report it back to the Senate, with the recommendation that it do pass and be printed in the Journal only.

McCollum, Chairman; Westbrook, Smith, Robbins, Strickland, Lattimore, Dayton, Gibson.

By Robbins.

S. B. No. 348.

A BILL
To be Entitled

An Act to amend Title 115, Chapter 15, of the Revised Civil Statutes of the State by adding immediately following Article 6653 a new article to be known as Article 6653a, and providing in substance that the Railroad Com-

mission of Texas shall hereafter be known as the Railroad and Public Utilities Commission of Texas, and providing that it shall have as a seal a star of five points with the words "Railroad and Public Utilities Commission of Texas" engraved thereon; making all laws applicable to the Railroad Commission applicable to the Railroad and Public Utilities Commission, notwithstanding this change of name and the additional duties conferred by this Act; and also to amend Section 1, Chapter 86, General Laws passed by the Regular Session of the Thirty-second Legislature, and which was "An Act conferring authority upon the Railroad Commission, and making it its duty to adopt all necessary rates, charges and regulations to govern and regulate persons, associations, and corporations, private or municipal, owning or operating public wharves, docks or piers, and all property used in connection therewith, or suburban, belt or terminal railroads in Texas, and to fix divisions of rates, charges and regulations between the same and railroads and all other common carriers under the control of the Railroad Commission, where a diversion (division) is proper; providing that all laws made and prescribed for the government and control of railroads, shall, as far as applicable, be of equal force against such persons, associations and corporations; authorizing the Commission to require reports of such persons, association and corporations, and giving to said Commission power to correct abuses and prevent unjust discrimination and extortion in rates or charges, of such persons, associations and corporations or any abuse by same; providing penalties for the violation of this Act, and declaring an emergency" by amending Section 1 thereof so as to confer the power and authority upon the Railroad and Public Utilities Commission of Texas over all public wharves, docks and piers, and all elevators, warehouses, sheds, tracks and other property used in connection therewith in the State of Texas, and over all suburban, belt and terminal railroads in said

State, and over all telephone and telegraph companies operating long distance lines fifty miles in length and over as to intrastate long distance calls, over all express companies, whether operating on or in connection with steam railroads, or electric or interurban railroads, as to intrastate traffic, over all pipe lines or companies transporting oil or gas for the public as to intrastate traffic, over all interurban and electric car lines or companies operating from one point to another within this State as to intrastate traffic, over all electric light and power companies conveying electricity for any purpose from one point to another in this State, and over all persons, associations and corporations, private or municipal, owning or operating any such railroad, electric railway, interurban railway, express company, wharf, dock, pier, elevator, warehouse, shed, track or other property, and all such telephone and telegraph lines, pipe lines and electric light and power lines; making it the duty of the Commission to fix and adopt all necessary rates, charges and regulations to govern the utilities or utility companies named, correct abuses, prevent unjust discrimination, fix divisions of rates and charges; making all laws of the State and rules of the Railroad Commission with reference to making rates and with reference to complaints, notices, appearances, the manner and method of hearings, rights of action and trial, and other statutes with reference to procedure concerning or governing the Railroad Commission with reference to railroads, applicable to the utilities above named, and according them the same rights and remedies as railroads; making all statutes with reference to the government control, management and regulation of railroads by the Commission and penalties for disobedience of its orders so far as they may be made so, applicable to the utilities above named; declaring that all other provisions of Chapter 86 of the General Laws of the Thirty-second Legislature applicable as though the provisions of this section had been embraced

in the original Section 1 of said chapter; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Title 115, Chapter 15, of the Revised Civil Statutes be and the same is hereby amended by adding immediately following Article 6653 a new Article, to be known as Article 6653a, and to read as follows, to wit:

Article 6653a. The Railroad Commission of Texas shall hereafter be known as the Railroad and Public Utilities Commission of Texas, and shall have a seal consisting of a star with five points with the words "Railroad and Public Utilities Commission of Texas" engraved thereon. All laws applicable to the Railroad Commission of Texas shall be applicable to the Railroad and Public Utilities Commission of Texas, notwithstanding this change of name and the additional duties conferred upon such officers by the provisions of this Act.

Sec. 2. Amend Section 1, Chapter 86, General Laws passed by the Regular Session of the Thirty-second Legislature so that the same shall hereafter read as follows, to wit:

Section 1. Power and authority are hereby conferred upon the Railroad and Public Utilities Commission of Texas over all public wharves, docks and piers, and all elevators, warehouses, sheds, tracks and other property used in connection therewith in the State of Texas, and over all suburban, belt and terminal railroads in said State, and over all telephone and telegraph companies operating long distance lines fifty miles in length and over as to intrastate long distance calls, over all express companies whether operating on or in connection with steam railroads or electric or interurban railroads as to intrastate traffic, over all pipe lines or companies transporting oil or gas for public as to intrastate traffic, over all interurban and electric car lines or companies operating from one point to another within this State as to intrastate traffic, over all electric light and power companies conveying electricity for any purpose from one point to another in this State, and over all persons, associations and corporations, private or municipal, owning or operat-

ing any such railroad, electric railway, interurban railway, express company, wharf, dock, pier, elevator, warehouse, shed, track or other property, and all such telephone and telegraph lines, pipe lines, pipe lines and electric light and power lines; and it is hereby made the duty of said commission to fix and adopt all necessary rates, charges and regulations to govern and regulate said persons, associations and corporations; and to correct abuses and prevent unjust discriminations in the rates, charges and tolls of said persons, associations and corporations; and to fix divisions of rates, charges (including connection charges or division of charges or rates between such long distance telephone companies and any local or long distance company), and regulations between same and all other public utilities under the control of the commission where a division is proper; and to correct and prevent any and all other abuses in the conduct of their business. All the laws of this State and the rules and regulations of the Railroad Commission heretofore or hereafter made with reference to making rates for railroads, complaints, notices and appearances relative thereto, the manner and method of hearings, rights of action and trial in courts, and all other statutes with reference to procedure concerning or governing the Railroad Commission in the making of rates, rules and regulations for the government of railroads shall be and hereafter are applicable to each and all of the several public utilities and public utilities companies named in this article; and all rights and remedies accorded by law to the Railroad Commission of Texas over railroads and all rights and remedies accorded to railroads with reference to the commission and its orders, are hereby conferred upon the commission with reference to each and all of the utilities herein named, and are accorded to each and all of the utilities named in the same manner that such rights, remedies and methods of procedure are accorded to railroads. And all statutes of this State with reference to the government, control, management and regulation of railroads by the Railroad

Commission and penalties for disobedience of its orders so far as the same may be made applicable are hereby made to apply to each and all of the utilities above named, and all the rights and remedies of the railroads with reference thereto, including notice, hearings, actions in court and appeals, are conferred upon each and all of the utilities herein named. All other provisions of Chapter 86 of the General Laws passed by the Thirty-second Legislature and of which this article is an amendment shall apply as though all the provisions of this section had been embraced in the original Section 1 of said Chapter of said Acts of the Legislature at the time of its original enactment.

Sec. 3. The importance of this legislation, the near approach of the end of the legislative session, and the crowded condition of the calendar, create an emergency and an imperative public necessity demanding that the constitutional rule requiring bills to be read on three several days be suspended and that this Act take effect from and after its passage, and such rule is so suspended and it is so enacted.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 694, A bill to be entitled "An Act to aid the City of Corpus Christi in elevating and raising a portion of said city and building a sea wall or breakwater so as to protect it from calamitous overflows, by donating to it the ad valorem taxes, collected on property and from persons in Nueces County for a period of fifteen years, and to provide a penalty for their misapplication, and declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass and be not printed.

Hudspeth, Chairman; Caldwell, Bee, King, Clark, Johnston of Harris, Westbrook, Dean, Johnson, Page, Parr.

(Floor Report.)

Senate Chamber.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 467, A bill to be entitled "An Act to appropriate out of the general revenue not heretofore appropriated, the sum of twenty-one thousand eight hundred and thirty-two and eighty hundredths dollars (\$21,832.80) or so much thereof as may be necessary to defray the expenses of the Live Stock Sanitary Commission of Texas in carrying out the provisions of C. S. S. B. No. 108, providing for the tick and sheep scab eradication for the fiscal year ending August 31, 1917, and declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be printed in the Journal only.

Hudspeth, Chairman; Caldwell, Bee, Dean, Page, Decherd, Hopkins, Clark, Johnston of Harris, Johnson, Westbrook, King, Page.

By Hudspeth.

S. B. No. 467.

A BILL
To Be Entitled

An Act to appropriate out of the general revenue not heretofore appropriated the sum of twenty-one thousand eight hundred and thirty-two and eighty hundred dollars (\$21,832.80) or so much thereof as may be necessary to defray the expenses of the Live Stock Sanitary Commission of Texas, in carrying out the provisions of Committee Substitute for Senate Bill No. 108, providing for the tick and sheep scab eradication for the fiscal year ending August 31, 1917, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That the sum of twenty-one thousand eight hundred thirty-two and eighty hundred (\$21,832.80) dollars be and the same is hereby appropriated out of the general revenue fund not otherwise appropriated, to be used for additional maintenance and support of the Live

Stock Sanitary Commission for the fiscal year ending August 31, 1917, as follows:

Salaries of 32 additional inspectors, five months, at \$83.33 per month....	\$13,332.80
Expenses of 20 additional inspectors five months at \$50 per month....	5,000.00
Expenses of 12 additional inspectors five months at \$25 per month.....	1,500.00
Office Expenses: Rent, stationery, stamps, telegraph bills and other necessary expenses....	2,000.00
Total	\$21,832.80

Sec. 2. The fact that there are not sufficient funds available for the Live Stock Sanitary Commission of Texas in performing its duties in carrying out the provisions of Senate Bill 108 providing for the tick and sheep scab eradication creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each house, and that this Act take effect and be in force from and after its passage, and it is so enacted.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.
Hon. W. P. Hobby, President of the Senate.

Sir: We, Your Committee on Stock and Stock Raising, to whom was referred

H. B. No. 443, A bill to be entitled "An Act to amend Article 7235, Chapter 6, Title 124, of the Revised Civil Statutes of Texas, 1911; and to amend Chapter 72, House Bill No. 827, General Laws of the Thirty-third Legislature, page 131, and to amend Chapter 99, House Bill No. 418, General Laws of the Thirty-fourth Legislature, page 152, with reference to the mode of preventing horses and certain other animals from running at large in the counties named so as to include El Paso County, declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass with the follow-

ing committee amendment, and be not printed.

Clark, Chairman; Buchanan of Bell, Parr, Hudspeth, Johnson, Dean, Robbins.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.
Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

H. B. No. 52, A bill to be entitled "An Act to exempt from taxation all buffalo and catalo now in captivity in Texas, by whomsoever owned, where such animals are kept and used for experimental purposes in crossing same with cattle for the purpose of producing a better strain of beef animals, or where such animals are kept in parks to preserve the species, and not for profit, and declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass and be not printed.

Clark, Chairman; Hudspeth, Robbins, Johnson, Dean, Parr.

(Floor Report.)

Senate Chamber,
Austin, Texas, March 12, 1917.
Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 237, A bill to be entitled "An Act to provide a more adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; perpetuating the Board of Water Engineers and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the Board of Water Engineers for per-

mits to construct storage, diversion and distribution works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the determination of water rights by the Board of Water Engineers; authorizing appeals from the decisions of the State Board of Water Engineers, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water, and declaring the effects of failure to observe the same authorizing the issuance of certificates of water rights and the recording thereof; fixing certain fees; creating the office of water commissioner and prescribing the duties and compensation thereof; authorizing the appointment of special assistants and prescribing their duties and compensation; dividing the State into water divisions and providing for water districts; prescribing the method for determining and recording titles to irrigation works, and establishing the period of limitation to quiet titles thereto; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this Act; requiring the making of annual report to the Board of Water Engineers; requiring the control of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation and other works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and we beg leave to report that said bill covers the same subject matter and is practically the same bill as S. B. No. 136, and we beg leave to report that said H. B. No. 287 be substituted for S. B. No. 136, and that the same do pass, and be not printed.

Hall, Chairman; Bailey, Caldwell,

Clark, Dayton, Robbins, King, Woodward, Harley.

Floor Report.)

Senate Chamber,

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred

H. B. No. 419, A bill to be entitled "An Act to establish standard containers and standard grades and packs for fruits and vegetables grown in this State for the markets; to prescribe dimensions and cubical contents of such containers; to require the manufacturers of such containers to conform to the standards herein prescribed; to define the different grades and packs as applied to different kinds of fruits and vegetables; to authorize the Commissioner of Agriculture of this State to promulgate and publish said standard for the information of the public, and promulgate standards of containers, grades and packs in conformity with those hereafter established by the Secretary of Agriculture of the United States; and to promulgate such other standards of containers, grades and packs as in his judgment are expedient and to the best interests of the fruit and truck growers of the State; providing for supervision of the grading and packing of fruits and vegetables through State inspectors to be appointed by the Commissioner of Agriculture; empowering the Commissioner of Agriculture to enforce the provisions of this Act; prescribing penalties for its violation, and declaring an emergency."

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass and be not printed.

WOODWARD, Chairman.

(Floor Report.)

Senate Chamber.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 595, A bill to be entitled

"An Act prescribing the duties of the District Attorney and County Attorney with reference to habeas corpus proceedings and examining trials in counties where there is not a resident Criminal District Attorney and repealing Article 31, Title 1, Chapter 2 of the Code of Criminal Procedure, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency;"

Have had the same under consideration, and I am instructed to report the bill back to the Senate with the recommendation that it do pass, and be not printed.

Page, Chairman; Suiter, Westbrook, Hall, King, Caldwell, Strickland, Lattimore.

Enrolling Committee Reports.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 430, and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented same to the Governor for his approval.

SMITH, Chairman.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 407, and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented the same to the Governor for his approval.

SMITH, Chairman.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 414 and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented same to the Governor for his approval.

SMITH, Chairman.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 417 and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented the same to the Governor for his approval.

SMITH, Chairman.

Committee Room,
Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 109 and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Bee.

S. B. No. 109.

An Act to amend Article 2811, Chapter 14, Title 48, Revised Statutes of Texas, 1911, empowering the trustees of any school district upon petition of parents or guardians, to require said trustees to establish and maintain free kindergarten for the training of children under the scholastic age down to and including five years, and to provide for trained kindergarten teachers.

Be it enacted by the Legislature of the State of Texas:

Section 1. The trustees of any school district in the State of Texas, upon the petition of the parents or guardians of twenty-five or more children under the scholastic age down to and including five years, residing within said district, shall establish and maintain a kindergarten as a part of the public free schools of said district, for the training of children under the scholastic age down to and including five years, residing in said district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such kindergartens as said trustees shall deem best. Provided that any such petition for the establishment and maintenance of a free kindergarten shall be presented to the trustees of said district between the first day of June and the first day of August in any year;

provided, further, that nothing in this Act shall be construed to change the law relating to the taking of the scholastic census, or the apportionment of State and county school funds among the several counties and districts in this State; provided, further, that the cost of establishing and maintaining said kindergartens shall be paid from the special school tax of said districts; said kindergartens shall be a part of the public school system and shall be governed, as far as practicable, in the same manner and by the same officers as is now, or may hereafter be, provided by law for the government of the other public schools of the State.

Sec. 2. The trustees shall be empowered to employ to teach such kindergartens only those who hold State kindergarten certificates, provided for in Section 121, of Chapter 96 of the Acts of the Thirty-second Legislature of the State of Texas.

Sec. 3. All laws and parts of laws in conflict with this Act are hereby repealed, and in case it is held by the courts that any part of this Act is unconstitutional, such decision shall not impair the other parts and provisions of this Act.

Committee Room,
Austin, Texas, March 12, 1917.
Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills, have carefully examined and compared C. S. for S. B. No. 11, and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented the same to the Governor for his approval.

SMITH, Chairman.

By Committee. C. S. for S. B. No. 11.

A BILL

To Be Entitled

An Act to apportion the State of Texas into congressional districts, naming the counties composing the same, and providing for the election of a member of the Congress of the United States from each district; and repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The State of Texas shall be apportioned into the follow-

ing congressional districts, each of which shall be entitled to elect one member of the Congress of the United States:

First—The following counties shall compose the First District, to wit: Bowie, Red River, Lamar, Delta, Hopkins, Franklin, Titus, Camp, Morris, Cass and Marion.

Second—The following counties shall compose the Second District, to wit: Panola, Shelby, San Augustine, Sabine, Newton, Jasper, Orange, Jefferson, Hardin, Tyler, Angelina, Nacogdoches, Cherokee and Harrison.

Third—The following counties shall compose the Third District, to wit: Kaufman, Van Zandt, Wood, Upshur, Smith, Gregg, Henderson and Rusk.

Fourth—The following counties shall compose the Fourth District, to wit: Fannin, Grayson, Collin, Hunt and Rains.

Fifth—The following counties shall compose the Fifth District, to wit: Dallas, Ellis and Rockwall.

Sixth—The following counties shall compose the Sixth District, to wit: Navarro, Freestone, Limestone, Robertson, Brazos, Milam, Leon, Madison and Hall.

Seventh—The following counties shall compose the Seventh District, to wit: Galveston, Chambers, Liberty, San Jacinto, Polk, Trinity, Houston, Anderson, Walker and Montgomery.

Eighth—The following counties shall compose the Eighth District, to wit: Harris, Fort Bend, Waller and Grimes.

Ninth—The following counties shall compose the Ninth District, to wit: Brazoria, Fayette, Colorado, Wharton, Matagorda, Jackson, Lavaca, Gonzales, Dewitt, Victoria, Calhoun, Goliad and Refugio.

Tenth—The following counties shall compose the Tenth District, to wit: Washington, Austin, Burleson, Lee, Bastrop, Caldwell, Hays, Travis and Williamson.

Eleventh—The following counties shall compose the Eleventh District, to wit: Bell, Coryell, Hamilton, Bosque, McLennan and Falls.

Twelfth—The following counties shall compose the Twelfth District, to wit: Erath, Hood, Somervell, Johnson, Tarrant and Parker.

Thirteenth—The following counties shall compose the Thirteenth District, to wit: Cooke, Denton, Wise, Montague, Clay, Jack, Young, Arch-

er. Wichita, Wilbarger, Baylor and Throckmorton.

Fourteenth—The following counties shall compose the Fourteenth District, to wit: Aransas, San Patricio, Bee, Karnes, Wilson, Bexar, Comal, Kendall, Blanco, Nueces and Guadalupe.

Fifteenth—The following counties shall compose the Sixteenth District, to wit: Cameron, Willacy, Kleberg, Jim Wells, Brooks, Hidalgo, Starr, Jim Hogg, Zapata, Webb, Duval, Live Oak, McMullen, LaSalle, Dimmit, Maverick, Zavala, Frio, Atascosa, Medina, Uvalde and Kinney.

Sixteenth—The following counties shall compose the Sixteenth District, to wit: Andrews, Martin, Howard, Mitchell, Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Ward, Crane, Upton, Reagan, Irion, Tom Green, Menard, Schleicher, Crockett, Sutton, Kimble, Terrell, Pecos, Reeves, Culberson, El Paso, Jeff Davis, Presidio, Brewster, Hudspeth, Real, Kerr, Gillespie, Bandera, Val Verde, Edwards and Mason.

Seventeenth—The following counties shall compose the Seventeenth District, to wit: Burnet, Llano, Comanche, McCulloch, San Saba, Lampasas, Mills, Brown, Coleman, Callahan, Eastland, Stephens, Shackelford, Jones, Palo Pinto, Taylor, Nolan, Concho and Runnels.

Eighteenth—The following counties shall compose the Eighteenth District, to wit: Hardeman, Foard, Knox, Haskell, Fisher, Stonewall, King, Cottle, Childress, Collingsworth, Wheeler, Hemphill, Lipscomb, Ochiltree, Roberts, Gray, Donley, Hall, Motley, Dickens, Kent, Scurry, Borden, Garza, Crosby, Floyd, Briscoe, Armstrong, Carson, Hutchinson, Hansford, Sherman, Moore, Potter, Randall, Swisher, Hale, Lubbock, Lynn, Dawson, Gaines, Terry, Hockley, Lamb, Castro, Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, Yoakum and Cochran.

Sec. 2. Nothing in this Act shall in any wise affect the tenure in office of the present delegation in Congress of Texas, but this Act shall take effect for the general election in 1918, and the congressman shall be elected from each of said districts for 1918, and thereafter until this law shall have been changed by the Legislature of this State.

Sec. 3. That all laws and parts of

laws in conflict with this Act be and the same are hereby repealed.

Sec. 4. The great importance of the legislation proposed and the previous delay in re-districting the State, causing great injustice to a large part of our State in denying due representation in Congress, creates an emergency and an imperative public necessity which requires that the constitutional rule requiring that bills be read on three several days be suspended and that this bill be placed upon final passage, and it is so enacted.

Senate Chamber.

Austin, Texas, March 12, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate Bill No. 237, and find it correctly enrolled, and have this day at 3:23 o'clock p. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Hudspeth, Hall S. B. No. 237
Caldwell, Page,
Westbrook, Smith,
Gibson, Strickland,
Woodward, Parr,
Johnson of Hall.

A BILL

To Be Entitled

An Act to amend Chapter 179 of the General Laws of the State of Texas passed at the regular session of the Thirty-third Legislature, entitled: "An Act relating to employers' liability and providing for the compensation of certain employes, and their representatives and beneficiaries, for personal injuries sustained in the course of employment, and for deaths resulting from such injuries, and provide and determine in what cases compensation shall be paid, and to make the payment thereof, and to make the payment thereof more certain and prompt by the creation of an insurance association to insure and guarantee such payments and of an industrial accident board for the investigation of claims and for the adjudication thereof for consenting parties, fixing the membership and powers of said board and its compensation and

duties, and the method of its appointment, and the term of office of its members and fixing also the powers, duties and liabilities of said insurance association and the extent of control over same to be exercised by the Commissioner of Banking and Insurance, and providing also for the insurance of payments of compensation to employes by certain other insurance companies and organizations, and declaring an emergency," and declaring an emergency,

Be it enacted by the Legislature of the State of Texas,

Section 1. That Chapter 179, entitled "An Act relating to employers' liability and providing for the compensation of certain employes, and their representatives and beneficiaries for personal injuries sustained in the course of employment, and for deaths resulting from such injuries, and to provide and determine in what cases compensation shall be paid, and to make the payment thereof the more certain and prompt by the creation of an insurance association to insure and guarantee such payments and of an industrial accident board for the investigation of claims and for the adjudication thereof for consenting parties, fixing the membership and powers of said board and its compensation and duties, and the method of its appointment, and the term of office of its members, and fixing also the powers, duties and liabilities of said insurance association and the extent of control over the same to be exercised by the Commissioner of Banking and Insurance, and providing also for the insurance of payments of compensation to employes by certain other insurance companies and organizations, and declaring an emergency," be and the same is hereby amended so as to hereafter read as follows:

Part I.

Section 1. In an action to recover damages for personal injuries sustained by an employe in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense:

1. That the employe was guilty of contributory negligence.

2. That the injury was caused by the negligence of a fellow employe.

3. That the employe had assumed the risk of the injury incident to his employment; but such employers may defend in such action on the ground that the injury was caused by the willful intention of the employe to bring about the injury, or was so caused while the employe was in a state of intoxication.

4. Provided, however, that in all such actions against an employer who is not a subscriber, as defined hereafter in this Act, it shall be necessary to a recovery for the plaintiff to prove negligence of such employer or some agent or servant of such employer acting within the general scope of his employment.

Sec. 2. The provisions of this Act shall not apply to actions to recover damages for the personal injuries nor for death resulting from personal injuries sustained by domestic servants, from laborers, nor to employes of any firm, person or corporation having in his or their employ less than three (3) employes, nor to the employes of any person, firm or corporation operating any steam, electric, street or inter-urban railway as a common carrier. Provided, that any employer of three or more employes at the time of becoming a subscriber shall remain a subscriber subject to all the rights, liabilities, duties and exceptions of such, notwithstanding, after having become a subscriber, the number of employes may at times be less than three.

Sec. 3. The employes of a subscriber shall have no right of action against their employer for damages for personal injuries, and the representatives and beneficiaries of deceased employes shall have no right of action against such subscribing employer for damages for injuries resulting in death, but such employes and their representatives and beneficiaries shall look for compensation solely to the association, as the same is hereinafter provided for; provided that all compensation allowed under the succeeding sections herein shall be exempt from garnishment, attachment, judgment and all other suits or claims, and no such right of action and no such compensation and no part thereof of either shall be

assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

Sec. 3a. An employe of a subscriber shall be held to have waived his right of action at common law or under any statute of this State to recover damages for injuries sustained in the course of his employment if he shall not have given his employer, at the time of his contract of hire, notice in writing that he claimed said right or if the contract of hire was made before the employer became a subscriber, if the employe shall not have given the said notice within five (5) days of notice of such subscription. An employe who has given notice to his employer that he claimed his right of action at common law or under any statute may thereafter waive such claim by notice in writing, which shall take effect five (5) days after its delivery to his employer or his agent; provided further, that any employe of a subscriber who has not waived his right of action at common law or under any statute to recover damages for injury sustained in the course of his employment, as above provided in this section, shall, as well as his legal beneficiaries and representatives, have his or their cause of action for such injuries as now exist by the common law and statutes of this State, which action shall be subject to all defenses under the common law and statutes of this State.

Sec. 3b. If an employe who has not given notice of his claim of common law or statutory rights of action, as provided in Section 3a, Part I, of this Act, or who has given such notice and waived the same, sustains an injury in the course of his employment, he shall be paid compensation by the association as hereinafter provided, if his employer is a subscriber at the time of the injury.

Sec. 4. Employes whose employers are not at the time of the injury subscribers to said association, and the representatives and beneficiaries of deceased employes who at the time of the injury were working for non-subscribing employers can not participate in the benefits of said insurance association, but they shall be entitled to bring suit and may recover judgment against such employers, or any of them, for all damages sustained by reason of any personal injury received in the course of employment or by reason

of death resulting from such injury, and the provisions of Section 1 of this Act shall be applied in all such actions.

Sec. 5. Nothing in this Act shall be taken or held to prohibit the recovery of exemplary damages by the surviving husband, wife heirs of his or her body, or such of them as there may be of any deceased employe whose death is occasioned by homicide from the wilful act or omission or gross negligence of any person, firm or corporation from the employer of such employe at the time of the injury causing the death of the latter. Provided, that in any suit so brought for exemplary damages the trial shall be de novo, and no presumption shall exist that any award, ruling or finding of the Industrial Accident Board was correct; and in such suit brought by the employe or his legal heirs or representatives against such association or employer, such award, ruling or finding shall neither be pleaded nor introduced in evidence.

Sec. 6. No compensation shall be paid under this Act for an injury which does not incapacitate the employe for a period of at least one week from earning full wages, but if incapacity extends beyond one week compensation shall begin to accrue on the eighth day after the injury. Provided, however, the medical aid, hospital services, and medicines, as provided for in Section 7 hereof, shall be supplied as and when needed and according to the terms and provisions of said Section 7. And provided, further, that if incapacity does not follow at once after the infliction of the injury or within eight (8) days thereof but does result subsequently that compensation shall begin to accrue with the eighth day after the date incapacity commenced. In any event the employe shall be entitled to the medical aid, hospital services and medicines as provided elsewhere in this Act.

Sec. 7. During the first two weeks of the injury, dating from the date of its infliction, the association shall furnish reasonable medical aid, hospital services and medicines. If the association fails to so furnish same as and when needed during the time specified, after notice of the injury to the association or subscriber, the injured employe may provide said medical aid, hospital services and medicines at the cost and expense of the association. The

employee shall not be entitled to recover any amount expended or incurred by him for said medical aid, hospital services or medicines nor shall any person who supplied the same be entitled to recover of the association therefor, unless the association or subscriber shall have had notice of the injury and shall have refused, failed or neglected to furnish it or them within a reasonable time. Provided, however, that at the time of the injury or immediately thereafter, if necessary, the employee shall have the right to call in any available physician or surgeon to administer first-aid treatment as may be reasonably necessary at the expense of the association. During the second or any subsequent week of continuous total incapacity requiring the confinement to a hospital, the association shall, upon application of the attending physician or surgeon certifying the necessity therefor to the Industrial Accident Board and to the association, furnish such additional hospital services as may be deemed necessary, not to exceed one week, unless at the end of such additional week the attending physician shall certify to the necessity for another week of hospital services, or so much thereof as may be needed; provided, however, that such additional hospital services as are provided for in this paragraph shall not be held to include any obligation on the part of the association to pay for medical or surgical services not ordinarily provided by hospitals as a part of their services.

Sec. 7a. If it be shown that the association is furnishing medical aid, hospital services and medicines provided for by Section 7 hereof in such manner that there is reasonable ground for believing that the life, health or recovery of the employee is being endangered or impaired thereby, the board may order a change in the physician or other requirements of said section, and if the association fails promptly to comply with such order after receiving it, the board may permit the employee or some one for him to provide the same at the expense of the association under such reasonable regulations as may be provided by said board.

Sec. 7b. All fees and charges under Sections 7 and 7a hereof shall be fair and reasonable, shall be subject to regulation of the board and

shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living where such treatment is paid for by the injured person himself or some one acting for him. In determining what fees are reasonable, the board may also consider the increased security of payment afforded by this Act. Where such medical aid, hospital service or medicines are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting the same, and the amount so paid shall be promptly reported to the board.

Section 7c. All fees of attorneys for representing claimants before the board under the provisions of this Act shall be subject to the approval of the board. No attorney's fees for representing claimants before the board shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to fifteen per cent of the amount of the first one thousand dollars or fraction thereof recovered, nor ten per cent of the excess of such recovery, if any, over one thousand dollars. And in addition to the reasonable expenses incurred by the attorney in the preparation and presentation of the said claim before the board, such expenses to be allowed by the board; further provided that where an attorney represents only a part of those interested in the allowance of a claim before the board and his services in prosecuting such claim and obtaining an award therein inures to the benefit of others jointly interested therein, then the board may take these facts into consideration and allow the attorney a reasonable charge, to be assessed against the interest of those receiving benefits of the service of such attorney. The attorney's fees herein provided for may be redeemed by the association by the payment of a lump sum or may be commuted by agreement of the parties subject to the approval of the board, but not until the claim represented by said attorney has been finally determined by the board and recognized and accepted by the association. After the approval, as first above provided for, if the association be notified in writing of such claim or agreement for legal

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services, the same shall be a lien against any amount thereafter to be paid as compensation; provided, however, that where the employee's compensation is payable by the association in periodical installments, the board shall fix at the time of approval the proportion of each installment to be paid on account of said legal services.

Sec. 7d. For representing the interest of any claimant in any manner carried from the board to the courts, it shall be lawful for the attorneys representing such interest to contract with any of the beneficiaries under this Act for an attorney's fee for such representation, not to exceed one-third (1-3) of the amount recovered, such fee for services so rendered to be fixed and allowed by the trial court in which such matter may be heard and determined.

Sec. 8. If death should result from the injury, the association hereinafter created shall pay the legal beneficiaries of the deceased employe a weekly payment to sixty per cent of his average weekly wages, but not more than \$15.00 nor less than \$5.00 a week, for a period of three hundred and sixty weeks from the date of the injury.

Sec. 8a. The compensation provided for in the foregoing section of this act shall be for the sole and exclusive benefit of the surviving husband who has not, for good cause, and for a period of three years prior thereto, abandoned his wife at the time of the injury, the wife who has not, at the time of the injury, without good cause, and for a period of three years prior thereto, abandoned her husband and the minor children, without regard to the question of dependency, dependent parents, dependent grandparents and dependent stepmothers and dependent children or dependent brothers and sisters of the deceased employe, and the amount recovered thereunder shall not be liable for the debts of the deceased nor for the debts of the beneficiary or beneficiaries, and shall be distributed among such beneficiaries as may be entitled to same as hereinbefore provided according to the laws of descent and distribution of this State; and provided such compensation shall not pass to the estate of the deceased to be administered upon, but shall be paid

directly to said beneficiaries when the same are capable of taking, under the laws of the state, or to their guardian or next friend, in case of lunacy, infancy or other disqualifying cause of any beneficiary. And the compensation provided for in this Act shall be paid weekly to the beneficiaries herein named and specified, subject to the other provisions of this Act.

Sec. 8b. In case death occurs as a result of the injury after a period of total or partial incapacity, for which compensation has been paid, the period of incapacity shall be deducted from the total period of compensation and the benefits paid thereunder from the maximum allowed for the death, respectively stated in this Act.

Sec. 9. If the deceased employe leaves no legal beneficiary, the association shall pay all expenses incident to his last sickness as a result of the injury and in addition a funeral benefit not to exceed \$100.00; provided, however, that where any deceased employe leaves legal beneficiaries, but who is buried at the expense of his employer or any other person, the expense of such burial, not to exceed \$100.00, shall be payable out of the compensation due the beneficiary or beneficiaries of such deceased employe, subject to the approval of the board.

Sec. 10. While the incapacity for work resulting from injury is total, the association shall pay the injured employe a weekly compensation equal to sixty per cent of his average weekly wage, but not more than \$15.00 nor less than \$5.00, and in no case shall the period covered by such compensation be greater than four hundred and one (401) weeks from the date of the injury.

Sec. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employe a weekly compensation equal to sixty per cent of the difference between his average weekly wages before the injury and his average weekly wage earning capacity during the existence of such partial incapacity, but in no case more than \$15.00 per week; and the period covered by such compensation to be in no case greater than three hundred weeks; provided that in no case shall the period of compensation for total and partial incapacity

exceed four hundred and one (401) weeks from the date of the injury.

Sec. 11a. In cases of the following injuries, the incapacity shall conclusively be held to be total and permanent, to wit:

(1) Total and permanent loss of the sight in both eyes.

(2) The loss of both feet at or above the ankle.

(3) The loss of both hands at or above the wrist.

(4) A similar loss of one hand and one foot.

(5) An injury to the spine resulting in permanent and complete paralysis of both arms or both legs or of one arm and one leg.

(6) An injury to the skull resulting in incurable insanity or imbecility.

In any of the above enumerated cases it shall be considered that the total loss of the use of a member shall be equivalent to and draw the same compensation during the time of such total loss of the use thereof as for the total and permanent loss of such member.

The above enumeration is not to be taken as exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries have resulted in permanent, total incapacity.

Sec. 12. For the injuries enumerated in the following schedule the employe shall receive in lieu of all other compensation except medical aid, hospital services and medicines as elsewhere herein provided, a weekly compensation equal to sixty per cent of the average weekly wages of such employe, but no less than \$5 per week nor exceeding \$15 per week, for the respective periods stated herein, to wit:

For the loss of a thumb sixty per cent of the weekly wages during sixty weeks.

For the loss of a first finger, the index finger, sixty per cent of the average weekly wages during forty-five weeks.

For the loss of a second finger sixty per cent of the average weekly wages during thirty weeks.

For the loss of a third finger, 60 per cent of the average weekly wages during 21 weeks.

For the loss of a fourth finger, commonly known as the little finger, 60 per cent of the average weekly wages during 15 weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third or distal phalange or any finger shall be considered to be equal to the loss of one-third of such finger.

The loss of the middle or second phalange of any finger shall be considered to be equal to the loss of two-thirds of such finger.

The loss of more than the middle or distal phalange of any finger shall be considered to be equal to the loss of the whole finger; provided, however, that in no case shall the amount received for the loss of a thumb and more than one finger on the same hand exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bone of the palm) for the corresponding thumb, finger, or fingers above, add ten weeks to the number of weeks as above, subject to the limitation that in no case shall the amount received for the loss or injury to any one hand be more than for the loss of the hand.

For ankylosis (total stiffness of) or contracture (due to sears or injuries) which make the fingers useless, the same number of weeks shall apply to such finger or fingers or parts of fingers (not thumb) as given above.

For the loss of a hand, 60 per cent of the average weekly wages during 150 weeks.

For the loss of an arm, at or above the elbow, 60 per cent of the average weekly wages during 200 weeks.

For the loss of one of the toes, other than the great toe, 60 per cent of the average weekly wages during ten weeks.

For the loss of the great toe 60 per cent of the average weekly wages during 30 weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half of the toe.

For the loss of a foot 60 per cent

of the average weekly wages during 125 weeks.

For the loss of a leg at or above the knee 60 per cent of the average weekly wages during 200 weeks.

For the total and permanent loss of the sight of one eye 60 per cent of the average weekly wages during 100 weeks.

In the foregoing enumerated cases of permanent, partial incapacity, it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member.

For the complete and permanent loss of the hearing in both ears 60 per cent of the weekly wages during 150 weeks.

For the loss of an eye and leg above the knee 60 per cent of the average weekly wages during a period of 350 weeks.

For the loss of an eye and an arm above the elbow 60 per cent of the average weekly wages during a period of 350 weeks.

For the loss of an eye and a hand 60 per cent of the average weekly wages during a period of 325 weeks.

For the loss of an eye and a foot 60 per cent of the average weekly wages during a period of 300 weeks.

Where the employee sustains concurrent injuries resulting in concurrent incapacities, he shall receive compensation only for the injury which produces the longest period of incapacity; but this section shall not affect liability for the concurrent loss or the loss of the use thereof of more than one member, for which members compensation is provided in this schedule; compensation for specific injuries under this act shall be cumulative as to time and not concurrent.

In all cases of permanent, partial incapacity, it shall be considered that the permanent loss of the use of the member be equivalent to and draw the same compensation as the loss of that member; but the compensation in and by said schedule provided shall be in lieu of all other compensation in such cases.

In all other cases, partial incapacity, including any disfigurement which will impair the future usefulness of occupational opportunities of the injured employee, compensation shall be determined according to the percentage of inca-

capacity, taking into account, among other things, any previous incapacity, the nature of the physical injury or disfigurement, the occupation of the injured employee and the age at the time of the injury; the compensation paid therefor shall be 60 per cent of the average weekly wages of the employee, but not to exceed \$15.00 per week, multiplied by the percentage of incapacity caused by the injury for such period as the board may determine, not exceeding 300 weeks. Whenever the weekly payments under this paragraph would be less than \$3.00 per week, the period may be shortened, and the payments correspondingly increased by the board.

Sec. 12a. If the injured employee refuses employment reasonably suited to his incapacity and physical condition, procured for him in the locality where injured or at a place agreeable to him, he shall not be entitled to compensation during the period of such refusal, unless in the opinion of the board such refusal is justifiable. This section shall not apply in cases of specific injuries for which a schedule is fixed by this Act.

Sec. 12b. In all claims for hernia resulting from injury sustained in the course of employment, it must be definitely proven to the satisfaction of the board.

First. That there was an injury resulting in hernia.

Second. That the hernia appeared suddenly and immediately following the injury.

Third. That the hernia did not exist in any degree prior to the injury for which compensation is claimed.

Fourth. That the injury was accompanied by pain.

In all such cases where liability for compensation exists, the association shall provide competent surgical treatment by radical operation.

In case the injured employee refuses to submit to the operation, the Board shall immediately order a medical examination of such employee by a physician or physicians of its own selection at a time and place to be by them named, at which examination the employee and the association, or either of them, shall have the right to have his or their physician present. The physician or physicians so selected shall make to the board a report in writ-

ing, signed and sworn to, setting forth the facts developed at such examination and giving his or their opinion as to the advisability or nonadvisability of an operation. If it be shown to the board by such examination and the written report thereof and the expert opinions thereon that the employee has any chronic disease or is otherwise in such physical condition as to render it more than ordinarily unsafe to submit to such operation, he shall, if unwilling to submit to the operation, be entitled to compensation for incapacity under the general provisions of this Act. If the examination and the written report thereof and the expert opinions thereon then on file before the board do not show to the board the existence of disease or other physical condition rendering the operation more than ordinarily unsafe and the board shall unanimously so find and so reduce its findings to writing and file the same in the case and furnish the employee and the association with a copy of its findings, then if the employee with the knowledge of the result of such examination, such report, such opinions and such findings, thereafter refuses to submit within a reasonable time, which time shall be fixed in the findings of the board, to such operation, he shall be entitled to compensation for incapacity under the general provisions of this Act, for a period not exceeding one year.

If the employee submits to the operation and the same is successful, which shall be determined by the board, he shall in addition to the surgical benefits herein provided for be entitled to compensation for 26 weeks from the date of the operation. If such operation is not successful and does not result in death, he shall be paid compensation under the general provisions of this Act the same as if such operation had not been had; other than in determining the quantum of compensation to be paid to the employee, the board may take into consideration any minor benefits that accrued to the employee by reason thereof or any aggravation or increased injury which accrued to him by reason thereof.

If the hernia results in death within one year after it is sustained, or the operation results in death, such death shall be held a result of the injury causing such hernia and compensated accordingly under the provisions of

this Act. This paragraph shall not apply where the employee has wilfully refused to submit to an operation which has been found by the examination herein provided for not to be more than ordinarily unsafe.

Sec. 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury.

Sec. 12d. Upon its own motion or upon the application of any person interested showing a change of conditions, mistake, or fraud, the board at any time within the compensation period may review any award or order, ending, diminishing or increasing compensation previously awarded, within the maximum and minimum provided in this Act, or change or revoke its previous order sending immediately to the parties a copy of its subsequent order or award. Review under this section shall be only upon notice to the parties interested.

Sec. 12e. In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment and a surgical operation for such injury will effect a cure of the employee or will materially and beneficially improve his condition, the association or the employee may demand that a surgical operation be had upon the employee as herein provided, and the association shall provide and pay for all necessary surgical treatment, medicines and hospital services incident to the performance of, said operation, provided the same is had. In case either of said parties demands in writing to the board such operation, the board shall immediately order a medical examination of the employee in the same manner as is provided for in the section of this Act relating to hernia. If it be shown by the examination, report of acts and opinions of experts, all reduced to writing and filed with the board, that such operation is advisable and will relieve the condition of the injured employee or will materially benefit him, the board shall so state in writing, and upon

the unanimous order of said board, in writing, a copy of which shall be delivered to the employe and the association, shall direct the employe at a time and place therein stated to submit himself to an operation for said injury. If the board should find that said operation is not advisable, then the employe shall continue to be compensated for his incapacity under the general provisions of this Act. If the board shall unanimously find and so state in writing that said operation is advisable, it shall make its order to that effect, stating the time and place when and where such operation is to be performed, naming the physician therein who shall perform said operation, and if the employe refuses to submit to such operation, the board may order or direct the association to suspend the whole or any part of his compensation during the time of said period of refusal. The results of such operation, the question as to whether the injured employe shall be required to submit thereto and the benefits and liabilities arising therefrom shall attach, be treated, handled and determined by the board in the same way as is provided in the case of hernia in this Act.

Sec. 12f. In all cases where a subscriber or the association has in his or its employ a physician or physicians regularly paid in any manner whatsoever by such subscriber or association to administer to or treat injured employes, the name or names of such physicians at the date of employment of the same shall be filed with the board together with a copy of the contract of such employment. If the contract of such physician or physicians is not in writing, then the same shall be reduced to writing and a copy thereof filed with the board. Such contract shall state fully the extent and scope of the employment and the compensation to be paid such physician or physicians. If the association or subscriber wilfully fails or refuses to comply with this provision of this Act, then an injured employe or any person acting for him shall have the right to provide hospital services, medical aid and medicine for said injured employe, at the expense of and the same shall be charged to the association, and the subscriber or as-

sociation shall notify the employe at or before the time of injury what physician or physicians are contracted with to treat his or its employes.

Sec. 12g. It shall be unlawful for any subscriber or any employer who seeks to comply with the provisions of this Act to either directly or indirectly collect of or from his employes by any means or pretense whatever any premium under this Act or part thereof paid or to be paid upon any policy of such insurance under this Act which covers such employes, or any intended policy of such insurance designed to cover such employes, and if any such subscriber or any employer of labor in this state violates this provision of this Act, then any employe or the legal beneficiary of any employe of such employer or subscriber shall be entitled to all the benefits of this Act and in addition thereto shall have a separate right of action to recover damages against such employer without regard to the compensation paid or to be paid to such employe or beneficiary under this Act, and the association shall in no wise be responsible because of such separate action by such employe or beneficiary against such employer on such separate cause of action.

Sec. 12h. Every contract or agreement of an employer, the purpose of which is to indemnify him from loss or damage on account of the injury of an employe by accidental means or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it also covers liability for the payment of the compensation provided for by this Act. Provided that this section of this Act shall not apply to employers of labor who are not eligible under the terms of this Act to become subscribers thereto, nor to employers whose employes have elected to reject the provisions of this Act, nor to employers eligible to come under the terms of this Act who do not elect to do so, but who choose to carry insurance upon their employes independently of this law and without attempting in such insurance to provide compensation under the terms of this Act; but further provided that any evasion of this section whereby an insurance company shall undertake, under the guise of writing insurance against

the risk of the employers who do not see proper to come under this Act, to write insurance substantially or in any material respect similar to the insurance provided for by this Act, that such insurance shall be void as provided for by the foregoing provisions of this section.

Sec. 12l. If it be established that the injured employe was a minor when injured and that under normal conditions his wages would be expected to increase, that fact may be considered in arriving at his average weekly wages and compensation may be fixed accordingly. This section shall not be considered as authorizing the employment of a minor in any hazardous employment which is prohibited by any statute of this State.

Sec. 13. If any injured employe is mentally incompetent or is a minor or is under any other disqualifying cause at the time when any rights or privileges accrue to him or exist under this Act, his guardian or next friend may in his behalf claim and exercise such rights and privileges except as otherwise herein provided.

In case of partial incapacity or temporary total incapacity payment of compensation may be made direct to the minor and his receipts taken therefor, if the authority to so pay and receipt for said compensation is first obtained from the board.

Sec. 14. No agreement by any employe to waive his rights to compensation under this Act shall be valid.

Sec. 15. In cases where death or total permanent incapacity results from an injury, the liability of the association may be redeemed by payment of a lump sum by agreement of the parties thereto, subject to the approval of the Industrial Accident Board hereinafter created. This section shall be construed as excluding any other character of lump sum settlement save and except as herein specified; provided, however, that in special cases wherein the judgment of the board manifest hardship and injustice would otherwise result, the board may compel the association in the cases provided for in this section to redeem their liability by payment of a lump sum may be determined by the board.

Sec. 15a. In any case where compensation is payable weekly at a definite sum and for a definite period,

and it appears to the board that the amount of a compensation being paid is inadequate to meet the necessities of the beneficiary the board shall have the power to increase the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid allowing such discount to the company increasing such payments as is applicable in cases of lump sum settlement.

Sec. 16. In all cases of injury resulting in death, where such injury was sustained in the course of employment, cause of action shall survive.

Sec. 17. Nonresident alien beneficiaries and resident alien beneficiaries shall be entitled to compensation under this Act. Nonresident alien beneficiaries may be officially represented by the consular officers of the nation of which such alien or aliens may be citizens or subject, and in such cases the consular officers shall have the right to receive for distribution for such nonresident alien beneficiaries all compensation awarded hereunder and the receipt of such consular officers shall be a full discharge of all sums paid to and received by them. The association may at any time subject to the approval of the board commute all future instalments of compensation payable to alien beneficiaries, not residents of the United States, by paying to such alien beneficiaries the sum agreed upon and filing receipts therefor with the board.

Sec. 18. It is the purpose of this Act that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein, and, if the association wilfully fails or refuses to pay compensation as and when the same matures and accrues, the board shall notify said association that such is the course it is pursuing, and if after such notice the association continues to wilfully refuse and fail to meet these payments of compensation as provided for in this Act, the board shall have the power to hold that such association is not complying with the provisions of this Act, and shall certify such fact to the Commissioner of Insurance and Banking and said certificate shall be sufficient

cause to justify said Commissioner of Insurance and Banking to revoke or forfeit the license or permit of such association to do business in Texas, provided said power of the board shall not be held to deny the association the right to bring suit or suits to set aside any ruling, order or decision of the board.

Sec. 19. If an employe who has been hired in this State sustained injury in the course of his employment he shall be entitled to compensation according to the law of this State, even though such injury was received outside of the State.

Part II.

Section 1. There shall be an Industrial Accident Board consisting of three members, and the same is hereby created to be appointed by the Governor, one of whom shall be chairman, and said board shall have the powers, duties and functions hereinafter conferred. Beginning with September 1, 1917, one member thereof shall be appointed for a term of two years, one for four years and one for six years; thereafter the term of office for members of the board shall be six years. Appointments to fill vacancies on the board shall be for the unexpired terms.

Sec. 2. One member of the Industrial Accident Board shall be at the time of his appointment an employer of labor in some industry or business covered by this Act; one shall be at the time of his appointment employed in some business industry as a wage earner, and the third member shall be at the time of his appointment a practicing attorney of recognized ability, said member to act in the capacity of legal adviser to the board, in addition to his other duties as a member thereof, and to be chairman of said board.

Sec. 3. The salaries and expenses of the Industrial Accident Board shall be paid by the State. The salaries of the said members of the board shall be as follows: For the chairman of said board \$3,000 per year, and for each of the other members thereof \$2,500, payable in equal monthly installments. The board may appoint a secretary at a salary not to exceed \$2,000 a year.

And may appoint such other clerical and other assistants as may be necessary to properly administer this Act. It shall also be allowed

an annual sum, the amount to be determined by the Legislature, for clerical and other services, office equipment, traveling and all other necessary expenses. The board shall be provided suitable offices in the Capitol or some convenient building in the city of Austin where its records shall be kept.

The members of said board, or any employe thereof, shall have the right to travel upon free railroad transportation in the prosecution of the duties of their respective offices in the State of Texas without violating any provision of the anti-pass laws of the state, and any railroad company issuing such transportation shall not be deemed nor held to have violated any law of this state by reason thereof.

Sec. 4. The board may make rules not inconsistent with this Act for carrying out and enforcing its provisions, and may require any employe claiming to have sustained injury to submit himself for examination before such board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the board to a physician or physicians authorized to practice under the laws of this state. If the employe or the association requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the employe to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employe shall persist in unsanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the board may in its discretion order or direct the association to reduce or suspend the compensation of any such injured employe. No compensation shall be reduced or suspended under the terms of this section without reasonable notice to the employe and an opportunity to be heard.

The association shall have the privilege of having any injured em-

ploye examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employe and convenient, and acceptable to him; provided, however, that the association shall pay for such examination and the reasonable expense incident to the injured employe in submitting thereto; and provided further that the injured employe shall have the privilege to have a physician or physicians of his own selection, at the expense of such injured employe, present to participate in such examination.

Process and procedure shall be as summary as may be under this Act. The board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, and to examine parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Act.

Section 4a. Unless the association or subscriber have notice of the injury, no proceeding for compensation for injury under this Act shall be maintained unless a notice of the injury shall have been given to the association or subscriber within thirty (30) days after the happening thereof, and unless a claim for compensation with respect to such injury shall have been made within six (6) months after the occurrence of same; or, in case of death of the employe or in the event of his physical or mental incapacity within six (6) months after the death or the removal of such physical or mental incapacity. Suit may be brought under the provisions of this section of the Act, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Sec. 5. All questions arising under this Act, if not settled by agreement of the parties interested therein and within the terms and provisions of this Act, shall, except as otherwise provided, be determined by the board. Any interested party who is not willing and does not con-

sent to abide by the final ruling and decision of said board shall within twenty days after the rendition of said final ruling and decision by said board give notice to the adverse party and to the board that he will not abide by said final ruling and decision. And he shall within twenty days after giving such notice bring suit in some court of competent jurisdiction in the county where the injury occurred to set aside said final ruling and decision and said board shall proceed no further toward the adjustment of such claim, other than as hereinafter provided; provided, however, that whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this Act, and the suit of the injured employe or person suing on account of the death of such employe shall be against the association if the employer of such injured or deceased employe at the time of such injury or death was a subscriber as defined in this Act. If the final order of the board is against the association, then the association and not the employer shall bring suit to set aside said final ruling and decision of the board, if it so desires, and the court shall in either event determine the issues in such cause instead of the board upon trial de novo and the burden of proof shall be upon the party claiming compensation. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the board, after having given the notice as above provided, fails within said twenty days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the association, it shall at once comply with such final ruling and decision, and failing to do so the board shall certify that fact to the Commissioner of Insurance and Banking, and such certificate shall be sufficient cause to justify said Commissioner of Insurance and Banking to revoke or forfeit the license or permit of such association to do business in Texas.

Sec. 5a. In all cases where the board shall make a final order, ruling or decision, as provided in the

foregoing Section 5 hereof, and against the association, and the association shall fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section 5 is provided, then in that event, the claimant in addition to the rights and remedies given him and the board in said Section 5 may bring suit in some court of competent jurisdiction where the injury occurred, upon said order, ruling or decision, and if he secures a judgment in said court sustaining such order, ruling or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent as damages upon the amount of compensation so recovered in said judgment together with a reasonable attorney's fee for the prosecution and collection of such claim.

It is further provided that where the board has made an award against an association requiring the payment to an injured employe or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and such association should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured employe or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon in any court of competent jurisdiction where the injury occurred to collect the full amount thereof, together with twelve per cent penalties and attorney's fees, as provided for in the foregoing paragraph of this Section. Suit may be brought under the provisions of this Section of the Act, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Sec. 6. If any subscriber to this Act with the purpose and intention of avoiding any liability imposed by the terms of the Act sublets the whole or any part of the work to be performed or done by said subscriber to any sub-contractor, then in the event any employe of such sub-contractor sustains an injury in the course of his employment he shall be deemed to be and taken for all

purposes of this Act to be the employe of the subscriber, and in addition thereto such employe shall have an independent right of action against such sub-contractor, which shall in no way be affected by any compensation to be received by him under the terms and provisions of this Act.

Sec. 6a. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the subscriber to pay damages in respect thereof, the employe may at his option proceed either at law against that person to recover damages or against the association for compensation under this Act, but not against both, and if he elects to proceed at law against the person other than the subscriber, then he shall not be entitled to compensation under the provisions of this Act; if compensation be claimed under this Act by the injured employe or his legal beneficiaries, then the association shall be subrogated to the rights of the injured employe in so far as may be necessary and may enforce in the name of the injured employe or of his legal beneficiaries or in its own name and for the joint use and benefit of said employe or beneficiaries and the association the liability of said other person, and in case the association recovers a sum greater than that paid or assumed by the association to the employe or his legal beneficiaries, together with a reasonable cost of enforcing such liability, which shall be determined by the court trying the case, then out of the sum so recovered the association shall reimburse itself and pay said cost and the excess so recovered shall be paid to the injured employe or his beneficiaries. The association shall not have the right to adjust or compromise such liability against such third person without notice to the injured employe or his beneficiaries, and the approval of the board, upon a hearing thereof.

Sec. 7. Every subscriber shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employes in the course of their employment. Within eight days after the occurrence of an accident resulting in an injury to an employe, causing his absence from work for

more than one day, a report thereof shall be made in writing to the board on blanks to be procured from the board for that purpose. Upon the termination of the incapacity of the injured employe, or if such incapacity extends beyond a period of sixty days, the subscriber shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employe and the character of work in which he was engaged at the time of the injury, and shall state the date and hour of receiving such injury and the nature and cause of the injury, and such other information as the board may require. Any employer wilfully failing or refusing to make any such report within the time herein provided, or willfully failing or refusing to give said board any information demanded by said board relating to any injury to any employe, which information is in the possession of or can be ascertained by the employer by the use of reasonable diligence, shall be liable for and shall pay to the State of Texas a penalty of not more than one thousand dollars for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis County by the Attorney General or by the district or county attorney under his direction in a district court thereof.

Sec. 8. A majority of the Board shall constitute a quorum to transact business, and the act or decision of any two members of the board shall be held the act or decision of the board, except as otherwise herein specifically provided. No vacancy shall impair the right of the remaining member or members of the board to exercise all the powers of the board. The board shall provide itself with a seal for the authentication of its orders, awards or proceedings on which shall be inscribed the words "Industrial Accident Board, State of Texas, Official Seal." And any order, award or proceeding of said board when duly attested and sealed by the board or its secretary shall be admissible as evidence of the act of said board in any court in this State.

Sec. 9. Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the board shall furnish to any person entitled thereto a certified copy of any order, award, decision or paper on file in the office of said board, and the fees so received for such copies shall be covered into the Treasury of the State of Texas into the fund for assistant clerical hire in the department of the Industrial Accident Board, and so much thereof as may be necessary may be used by said department upon proper voucher therefor to pay the necessary clerks to make such copies, and any excess that may exist at the end of any fiscal year in such fund shall lapse into the general revenue fund of this State, and no fee or salary shall be paid to any clerk or other person in said department for making such copies in excess of the fees charged for such copies.

Sec. 10. Said board or any member thereof may hold hearings or take testimony or make investigations at any point within the State of Texas, reporting the result thereof, if the same is made by one member to the board, or it can employ or use the assistance of an inspector or adjuster for the purpose of adjusting and settling claims for compensation or developing the facts relating to any claim for compensation.

Sec. 11. When the association suspends or stops payment of compensation, it shall immediately notify the board of that fact, giving to said board the name, number and style of the claim, the amount paid thereon, the date of the suspension or stopping of payment thereon and the reason for such suspension or stopping of payment of compensation.

Sec. 12. The board upon application of either party may in its discretion, having regard to the welfare of the employe and the convenience of the association, authorize compensation to be paid monthly or quarterly.

In any case where the liability of the association or the extent of the injury of the employe is uncertain, indefinite or incapable of being satisfactorily established the board may approve any compromise, adjustment, settlement or commutation thereof made between the parties.

Part III.

Sec. 1. The "Texas Employers' Insurance Association" is hereby created, a body corporate with the powers provided in this Act and with all the general corporate powers incident thereto.

Sec. 2. The Governor shall appoint a board of directors of the association consisting of twelve members, who shall serve for a term of one year or until their successors are elected by a ballot by the subscribers at such time and for such term as the by-laws shall provide; provided that at any annual meeting of subscribers the number of directors may be increased or decreased by resolution duly recorded in the minutes of such meeting.

Sec. 3. Until the first meeting of the subscribers the board of directors shall have and exercise all the powers of the subscribers and may adopt by-laws, not inconsistent with the provisions of this Act, which shall be in effect until amended or repealed by the subscribers.

Sec. 4. The board of directors shall immediately choose by ballot a president, who shall be a member of the board, a secretary, a treasurer, and such other officials as the by-laws may provide.

Sec. 5. Seven or more of the directors shall constitute a quorum for the transaction of business. Vacancies in any office may be filled in such manner as the by-laws shall provide.

Sec. 5a. The board of directors may appoint an executive committee which may have and exercise all of the powers of the board of directors except when the board is in session.

Sec. 6. Any employer of labor in this State may become a subscriber except as provided in Section 2, Part I, of this Act.

Sec. 7. The board of directors shall, within thirty days of the subscription of twenty-five employes call the first meeting of the subscribers by a notice in writing mailed to each subscriber at his residence or place of business not less than ten days before the date fixed for the hearing.

Sec. 8. In any meeting of the subscribers each subscriber shall have one vote, and if a subscriber has 500 employes to whom the association is bound to pay compensation he shall be entitled to two votes and he shall be entitled to

one additional vote for each additional 500 employes to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right or by right of proxy, more than 20 votes.

Sec. 9. No policies shall be issued by the association until not less than 50 members have subscribed, who have not less than 2,000 employes to whom the association may be bound to pay compensation.

Sec. 10. No policies shall be issued by the association until a list of the subscribers with the number of employes of each, together with such information as the Commissioner of Banking and Insurance may require, shall have been filed with the Department of Insurance and Banking, nor until the president and secretary of the association shall have certified under oath that every subscription on the list so filed is genuine and made with an agreement with each subscriber that he will take the policy so subscribed for by him within thirty days of the granting of a license to the association by the Commissioner of Insurance and Banking to issue policies.

Sec. 11. If the number of subscribers falls below fifty, or the number of employes to whom the association may be bound to pay compensation falls below 2,000, no further policies shall be issued until other employers have subscribed who, together with existing subscribers, amount to not less than fifty, who have not less than 2,000 employes to whom the association may be bound to pay compensation, said subscriptions to be subject to the provisions of the preceding section.

Sec. 12. Upon the filing of the certificates provided for in the two preceding sections, the Commissioner of Insurance and Banking shall make such investigations as he may deem proper and, if his findings warrant it, grant a license to the association to issue policies.

Sec. 13. The board of directors may distribute the subscribers into groups for the purpose of segregating the experience of each such group as to premiums and losses, and for the purpose of determining dividends payable to and assessments payable by the subscribers within each group, but for the purpose of determining the solvency of

the association the funds of the association shall be deemed one and indivisible. The board of directors shall have power to rearrange any of the groups by withdrawing any subscriber and transferring him wholly or in part to any group and to set up new groups at its discretion.

Sec. 14. The association may, in its by-laws and policies, fix the limit of liability of the subscribers for the payment of assessments hereinafter provided for, but such limit of liability of the subscribers shall not, except by special agreement in writing between the association and subscriber, be fixed at an amount greater than an amount equal to and in addition to an annual premium.

Sec. 15. If the association, at the end of any calendar year, is not possessed of admitted assets in excess of unearned premiums sufficient for the payment of its incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses, first upon the subscribers within each group whose earned premiums compared with its incurred losses and expenses shows a deficiency for the group, and second, only upon the subscribers within each group whose earned premiums compared with its incurred losses and expenses shows a surplus, and in no event shall it make an assessment for any aggregate amount more than is needed to pay losses and expenses. Every subscriber shall, in accordance with the law and his contract, pay his proportionate part of any assessment which may be levied by the association on account of losses and expenses incurred during any calendar year while he is a subscriber.

Sec. 16. The board of directors may by vote from time to time fix the amount to be paid as dividends on the policies in force during each calendar year after retaining sums sufficient to pay all compensation which may be payable on account of injuries sustained and expenses incurred during the calendar year. Dividends and assessments shall be fixed by and for groups, but the entire assets of the association, including the liability of the subscriber to assessment within the limits fixed by the by-laws or by special agreement in writing as authorized, shall

be subject to the payment of any approved claim for compensation against the association.

Sec. 16a. Whenever the association shall have accumulated at the end of any calendar year an admitted surplus in excess of incurred losses, expenses and unearned premiums amounting to the sum of two hundred thousand dollars, the liability of its members to assessment shall be suspended during the ensuing calendar year, or for such further period as the association shall maintain unimpaired such surplus of two hundred thousand dollars or more, and the certificate of the Commissioner of Insurance and Banking, after an examination and report shall be conclusive evidence as to the fact in any proceeding in which the fact may be an issue.

Sec. 16b. Whenever by reason of having qualified under Section 16a, Part III, to issue policies which are not subject to assessment, the association may issue policies which will not entitle the holder to participate in any distribution of surplus.

Sec. 16c. The board of directors shall determine hazards by classes, and fix the rates of premium which shall be applicable to the pay roll in each of such classes at the lowest possible rate consistent with the maintenance of solvency and the creation of adequate reserves and a reasonable surplus, and for such purpose may adopt a system of schedule and experience rating in such a manner as to take account of the peculiar hazard of each individual risk.

Sec. 17. Any proposed rate of premium, assessment or dividend or any distribution of subscribers shall not take effect until approved by the Commissioner of Insurance and Banking after such investigation as he may deem necessary.

Sec. 18. The association shall make and enforce reasonable rules for the prevention of injuries on the premises of subscribers and for this purpose the inspector of the association or of the board shall have free access to all such premises during regular working hours. Any subscriber aggrieved by such rule or regulation may petition the board for a review, and it may affirm, amend or annul the rule or regulation.

Sec. 18a. Whenever any employer of labor in this State becomes a sub-

scriber to this Act, he shall immediately notify the board of such fact, stating in such notice his name, place of business, character of the business, approximate number of employees, estimated amount of his pay roll and the name of the insurance company carrying his insurance, the date of issuing the policy and the date when the same will expire, and whenever any policy is renewed that fact shall be made known to the board and the notice thereof shall contain the above facts. The association shall also report the same to the board, giving the name of the employer, place of business, character of the business, approximate number of employees, estimated amount of pay roll, date of issuance and date of expiration of said policy. Any employer or association wilfully failing or refusing to make any such report shall be liable for and shall pay to the State of Texas a penalty of not more than one thousand dollars (\$1,000) for each and every offense, the same to be recovered in a suit to be instituted and prosecuted in Travis County by the Attorney General or by the district or county attorney under his direction in the district court thereof.

Sec. 19. Every subscriber shall as soon as he secures a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the board to all persons under contract of hire with him that he has provided for payment of compensation for injuries with the association.

Sec. 20. Every subscriber shall, after receiving a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the board to all persons with whom he is about to enter into a contract of hire that he has provided for payment of compensation for injuries by the association. If any employer ceases to be a subscriber he shall, on or before the date on which his policy expires, give notice to that effect in writing or print or in such other manner or way as the board may direct or approve to all persons under contract of hire with him. In case of the renewal of his policy no notice shall be required under this Act. He shall file a copy of said notice with the board.

Sec. 21. If a subscriber who has

complied with all the rules, regulations and demands of the association is required by any judgment of a court at law to pay any employee any damages, actual or exemplary, on account of any personal injury sustained by such employee in the course of his employment during the period of subscription, the association shall pay to the subscriber the full amount of the judgment and the cost assessed therewith, if the subscriber shall have given the association notice of the bringing of the action upon which the judgment was recovered and an opportunity to appear and defend same in his or its name.

Sec. 22. The corporate powers of the association shall not expire because of failure to issue policies or to make insurance.

Sec. 23. The association shall set up and maintain reserves adequate to meet anticipated losses and carry all claims to maturity and policies to termination, which reserves shall be computed in accordance with such rules as shall be approved by the Commissioner of Banking and Insurance.

Part IV.

Section 1. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

"Employer" shall mean any person, firm, partnership, association of persons or corporations or their legal representatives that makes contracts of hire.

"Employee" shall mean every person in the service of another under any contract of hire, expressed or implied, oral or written, except masters of or seamen on vessels engaged in interstate or foreign commerce, and except one whose employment is not in the usual course of the trade, business, profession or occupation of his employer.

The words "legal beneficiaries" as used in this act shall mean the relatives named in Section 8a, Part 1, of this Act. "Association" shall mean the "Texas Employers' Insurance Association" or any other insurance company authorized under this Act to insure the payment of compensation to injured employees or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employe who has become a member of the association by paying the required premium; provided that the association holds a license issued by the Commissioner of Insurance and Banking, as provided for in Section 12, Part 3, of this Act.

"Average weekly wages" shall mean:

1. If the injured employe shall have worked in the employment in which he was working at the time of the injury, whether for the same employer or not, substantially the whole of the year immediately preceding the injury, his average annual wages shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed.

2. If the injured employe shall not have worked in such employment during substantially the whole of the year, his average annual wages shall consist of three hundred times the average daily wage or salary which an employe of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place, shall have earned in such employment during the days when so employed.

3. When by reason of the shortness of the time of the employment of the employe, or other employe engaged in the same class of work in the manner and for the length of time specified in the above Sub-sections 1 and 2, or other good and sufficient reasons, it is impracticable to compute the average weekly wages as above defined, it shall be computed by the board in any manner which may seem just and fair to both parties.

4. Said wages shall include the market value of board, lodging, laundry, fuel and other advantages which can be estimated in money, which the employe receives from the employer as part of his remuneration. Any sums, however, which the employer has paid to the employe to cover any special expenses entailed on him by the act of his employment shall not be included.

5. The average weekly wages of an employe shall be one-fifty-second (1-52) part of the average annual wage.

The terms "injury" or "personal injury" as used in this Act shall be construed to mean damage or harm to the physical structure of the body and such diseases or infection as naturally result therefrom.

The term "injury sustained in the course of employment," as used in this Act, shall not include:

1. An injury caused by the act of God, unless the employe is at the time engaged in the performance of duties that subject him to a greater hazard from the act of God responsible for the injury than ordinarily applies to the general public.

2. An injury caused by an act of a third person intended to injure the employe because of reasons personal to him and not directed against him as an employe, or because of his employment.

3. An injury received while in a state of intoxication.

4. An injury caused by the employe's willful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employe while engaged in or about the furtherance of the affairs or business of his employer whether upon the employer's premises or elsewhere.

Sec. 1a. The president, vice president or vice presidents, secretary or other officers thereof provided in its charter or by-laws and the directors of any corporation which is a subscriber to this Act shall not be deemed or held to be an employe within the meaning of that term as defined in the preceding section hereof.

Sec. 2. Any insurance company, which term shall include mutual and reciprocal companies, lawfully transacting a liability or accident business in this State, shall have the same right to insure the liability and pay the compensation provided for in Part 1 of this Act, and when such company issues a policy conditioned to pay such compensation, the holder of such said policy shall be regarded as a subscriber so far as applicable under this Act, and when such company insures such payment of compensation it shall be subject to the provisions of Parts 1, 2 and 4 and of Sections 10, 17, 18a and 21 of

Part 3 of this Act, and shall file with the Commissioner of Insurance and Banking its classification of hazards with the rates of premium respectively applicable to each, none of which shall take effect until the Commissioner of Insurance and Banking has approved same as adequate to the risks to which they respectively apply and not less than charged by the association, and such company may have and exercise all of the rights and powers conferred by this Act on the association created hereby, but such rights and powers shall not be exercised by a mutual or reciprocal organization unless such organization has at least fifty subscribers who have not less than 2,000 employees.

Sec. 3. Any subscriber who has paid a premium as provided in Section 1, Part 4, of this Act, may, upon application to the board and to the association and after a showing satisfactory to the board, that he has notified all of his employees in such manner as may be required by the board cease to be a subscriber and be entitled to a refund of the unearned portion of his premium, subject, however, to any rule approved by the Commissioner of Insurance and Banking as to minimum premiums or short rate cancellation.

Section 3a. Any subscriber who shall willfully misrepresent the amount of his pay roll to the association writing his insurance upon which any premium under this Act is to be based shall be liable to the association insuring the compensation of his employees in an amount not to exceed ten times the amount of the difference between the premium which he paid and the amount which said subscriber should have paid had his pay roll been correctly computed; and the liability to said association for such misrepresentation, if it was deceived thereby, may be enforced in a civil action in any court of competent jurisdiction in this state.

Sec. 3b. No inchoate, vested, matured, existing or other rights, remedies, powers, duties or authority, either of any employe or legal beneficiary, or of the board, or of the association, or of any other person shall be in any way affected by any of the amendments herein made to the original law hereby amended, but all such rights, remedies, pow-

ers, duties and authority shall remain and be in force as under the original law just as if the amendments hereby adopted had never been made, and to that end it is hereby declared that said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties and authority; and further, this Act, in so far as it adopts the law of which it is an amendment, is a continuation thereof, and only in other respects a new enactment.

Sec. 3c. Any reference to any employe herein who has been injured shall, when the employe is dead, also include the legal beneficiaries, as that term is herein used, of such employe to whom compensation may be payable. Whenever the word "board" is used in this Act it shall be construed to mean Industrial Accident Board created by this Act. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

Sec. 4. Should any part of this Act for any reason be held to be invalid, unconstitutional or inoperative, no other part or parts thereof shall be held affected thereby, and if any exception to or any limitation upon any general provision herein contained shall be held to be unconstitutional or invalid or ineffective the general provisions shall nevertheless stand effective and valid as if it has been enacted without limitation or exceptions.

Sec. 5. In cases of emergency or impending necessity the association may make advanced payments of compensation to any employe during the period of his incapacity or to his beneficiaries within the terms of this Act, and when the same is either directed or approved by the board it shall be credited as against any unaccrued compensation due said employe or beneficiaries.

Sec. 6. The reports of accidents required by this Act to be made by subscribers shall not be deemed and considered as admissions and evidence against the association or the subscriber in any proceedings before the board or elsewhere in a contested case where the facts set out therein or in any one of them is

sought to be contradicted by the association or subscriber.

Sec. 7. The law as it now stands being wholly inadequate to protect the rights of industrial employes who may be injured in industrial accidents and the beneficiaries of such employes may be killed in such accidents creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

FORTY-NINTH DAY.

Senate Chamber,
Austin, Texas,
Tuesday, March 13, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Dayton.	Page.
Dean.	Parr.
Decherd.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Suiter.
Harley.	Westbrook.
Hopkins.	Woodward.

Absent—Excused.

Henderson.

Prayer by the Rev. J. W. Goodwin of Rusk.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Clark.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Bills and Resolutions.

By Senator Hudspeth, by request:
S. B. No. 481, A bill to be entitled "An Act authorizing the Governor to appoint special railroad police at the request of steam or electric railroad corporations and receivers thereof and defining their powers and duties."

Read first time and referred to Committee on Internal Improvements.

By Senator Hudspeth:
S. B. No. 482, A bill to be entitled "An Act to amend Article 1818, Revised Civil Statutes of Texas, 1911, relating to the preparation and filing of pleadings in the district and county courts, together with sworn copies thereof."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator McNealus:
S. B. No. 483, A bill to be entitled "An Act to amend Title 12, Article 317 of the Revised Civil Statutes of the State of Texas, Acts of the Twenty-ninth Legislature of the State of Texas."

Read first time and referred to the Committee on Civil Jurisprudence.

Simple Resolution No. 117.

Whereas, it is the desire of the Senate to so amend the law regulating the operation of the penitentiary system as to assist in making the same self-sustaining; and

Whereas, in order to do so intelligently and most effectively, it is necessary to be informed as to the expense of management of same during the years 1915 and 1916 and to have a statement of its receipts during said years;

Therefore be it resolved by the Senate, That the Board of Prison Commissioners be and they are hereby directed to file with the Secretary of the Senate a statement of all amounts received by said Commission from January 1st, 1915, to January 1st, 1917, for the use and benefit of said system, including appropriations made by the Legisla-